

approved
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ZONING BOARD OF APPEALS
Meeting Minutes of January 16, 2024
@ 7:00 p.m.
CARVER TOWN HALL
MEETING ROOM #4

Present: Stephen G. Gray, Chairman. Frances Mello, Vice Chairperson. Members: Mark Poirier; James Barrington; Jennifer Cullum.

Alternate Anita Doll was also present.

The meeting started at 7:00 P.M.

A. Approval of Minutes:

Approval of Meeting Minutes of December 13, 2023. Vice Chairperson Mello made a Motion to accept the Minutes as written and Member Barrington seconded the Motion. The Motion passed unanimously.

B. Public Hearing: Case 125-19-2-R: Petitioner: Jeffrey Benoit, seeking a Special Permit pursuant to Sections 2250, 5221, and 5300 et. Seq. of the Carver Zoning By-law, to reconstruct a single-family residence on a pre-existing non-conforming lot for property located at 48 Cranberry Road in Carver, MA (Assessors Map 125 Lot 19-0-R) in a Residential Agricultural District.

Chairman Gray noted this Case has been continued twice previously.

Chairman Gray read an email from the applicant's attorney, Lawrence Hale, requesting a continuance to the May meeting. Chairman Gray stated he has a professional connection currently with Attorney Hale and recused himself.

Vice Chairman Mello, now sitting as Acting Chair, explained that this is the third request for a continuance since September 2023.

Member Barrington shared his concerns about the repeated continuance requests and stated that he would be comfortable with one more to the May meeting date, but no more thereafter.

Member Mello shared concerns about the abutters and when they were notified. She stated that the abutters were notified when the Petitioner first applied and then again for a second time in August. She said she was fine with the continuance until May but if another were to be requested, that the Board should require the Petitioner to withdraw and the abutters be notified again.

Member Cullum said she would prefer to work with the Petitioner as the first time a continuance was requested, it was because a full Board was not present.

Member Poirier made a Motion to Continue until the May meeting date with the condition that there would be no further continuances granted. The Motion was seconded by Member Barrington and passed unanimously.

Chairman Gray asked Member Mello to write a note to the Clerk in the Zoning office regarding the “no further continuances” condition.

C. Public Hearing: Case 75-31-A-R: Petitioner: James Harkins, requesting a Special Permit and/or a dimensional Variance pursuant to Sections 2320, 2254, 2260 et. seq., and 5221-5223 of the Carver Zoning Bylaw for property located at 66 Holmes Street in Carver, MA (assessors Map 75, Lot 31-A R) so as to construct a 29x27 square foot in-law addition in a Residential Agricultural District. A Variance is being requested due to the need for front setback relief of approximately 20 feet (50’ is required under the By-law).

Chairman Gray opened the hearing for Case 75-31-A-R.

Mr. Harkins was present before the Board and reviewed his plans for the property. He said the arc or curved shape of this corner lot is such that he cannot do much to alleviate his dimensional deficiency. It was mentioned and observed from the Plan that there is a well in the front of the lot and the septic is in the rear. On the opposite side to the proposed in-law is the garage to the principal dwelling.

Mr. Harkins also remarked that the proposed in-law would not be closer than 50 feet from the road, but rather, just closer to the front property line.

Chairman Gray reviewed the letter from the Building Commissioner, dated November 14, 2023, which stated that the proposed front setback does not meet the requirement of 50 feet. He also inquired of the age of the expected occupant of the proposed in-law and was told that she was older than 55.

Member Poirier made a Motion that the Board had jurisdiction to hear this Case, as the Building Commissioner denied the requested Building Permit on November 14, 2023 and the Petitioner filed his appeal on November 26, 2023. The Motion was seconded by Member Barrington and passed unanimously.

Member Mello made a Motion that due to circumstances relating to the soil conditions, shape, and or topography of the structure or lot, but not affecting the district generally, a literal enforcement of the provisions of the Bylaw 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 Bylaw. The Motion was seconded by Member Cullum and passed unanimously.

Member Barrington made a Motion that the proposed structure, per its size and purpose, satisfies the accessory dwelling bylaw set forth in Section 2260, et. seq. The Motion was seconded by Member Cullum and passed unanimously.

Member Mello made a Motion to grant a dimensional variance of 16 feet from the Carver Zoning Bylaw, Section 2320, front setback, and was seconded by Member Barrington. The Motion passed unanimously.

Member Barrington made a Motion that the following conditions be attached to the variance grant:

1. The proposed in-law shall be subject to the Plan of record;
2. No part of the in-law may be sited in front of the principal residence on site;
3. The height of the roof of the in-law shall not be higher than the highest point of the roof of the principal residence on site;
4. And in all other respects, the in-law shall satisfy the requirements as specified in Section 2262 of the By-law.

The Motion was seconded by Member Cullum and passed unanimously.

D. Open Meeting Law Complaint – review complaint about agenda for December 13, 2023 meeting: discussion and possible vote to authorize response

Chairman Gray explained that the Open Meeting Law complaint concerning the Agenda of December 13, 2023, has been withdrawn by the Complainant, as the same complaint had been filed against the Select Board and the Office of the Attorney General had found it to be without merit.

E. Correspondence (if any)

The Board discussed that the next meeting is to be held on May 8, 2024.

Member Barrington made a Motion to Adjourn which was seconded by Member Poirier. The Motion passed unanimously.

Patricia A. Pacella

Recording Secretary