

SHARON ZONING BOARD OF APPEALS

MINUTES OF WEDNESDAY, March 8, 2023

LOCATION OF MEETING: In compliance with the Governor's emergency declaration relative to the conduct of public meetings, the Town arranged to conduct board and committee meetings using Zoom video/audio conferencing in an effort to minimize the spread of COVID-19. Interested citizens received directions on how to attend the meeting remotely in the agenda as posted on the ZBA website and the Town. This meeting was presented with the video and/or audio available for later broadcast. The Zoning Board of Appeals is focused on observing the spirit of the Open Meeting Law during this temporary emergency situation to assure accountability for the deliberations and actions of elected and appointed officials conducting the public's business.

A virtual meeting of the Sharon Zoning Board of Appeals was held on Wednesday, March 8, 2023, at 7:00 P.M. The following members were present as established by roll call: Joe Garber, Chair, Hemant Mehta, and Arnold Wallenstein. Also present for the town, Michelle Katapodis, ZBA Administrative Assistant, Dana Hinthorne, Building Inspector.

Mr. Garber, Chair called the meeting to order at 7:00 PM. Mr. Garber, Chair, read Covid19 protocols per the Governor of MA and procedural ground rules.

Case 1914 – 104 Massapoag Avenue (continued from February 22, 2023)

Present for the applicant Sarah Dunbar of Hisel Flynn Architects and Susan Yeon resident.

Mr. Garber read the legal ad into the record .

Mr. Garber read a letter dated February 7, 2023, from Kevin Davis, Board of Health Agent and a letter dated January 23, 2023, from Josh Philibert, Conservation Administrator.

Ms. Dunbar presented the existing plot plan and explained to everybody that they are proposing to take down an existing bungalow and separate garage building and replacing them with one house that would have the garage as part of the house on the first floor. She also mentioned that there will be a patio and hot tub under the overhang. Ms. Dunbar explained that since the parcel is narrow, just over 75' wide it is difficult to work with the side yard setbacks and that is why they are asking for a Special Permit. The stated that they are not within the wetlands or wetlands buffer. Mr. Garber explained to everybody that the reason the case was continued was that the original plan had a deck on the side of the house that was encroaching too far into the side setback and the new plan will be a patio and a hot tub.

Mr. Garber asked to see the floor plan and if anybody had any questions. Ms. Dunbar presented the south elevation which showed that it is a two-story house with 2 bedrooms on the first floor and that the garage door is facing the south side, it is not facing Massapoag Ave. Ms. Dunbar showed the floor plan for the second floor, which the third bedroom is located on as well as an office, kitchen and living room. Mr. Garber asked if there were any additional plans that needed to be presented.

Mr. Garber opened it to the board members. Mr. Mehta asked to review the setbacks to make sure they are conforming with the bylaws; he questioned the setback near the pool (hot tub). Ms. Dunbar explained that in the zoning bylaw there was a requirement to conform to the building setbacks if it was a larger pool, but the proposed one is well under that square footage. Mr. Mehta stated that it was a good improvement, and he has no issues.

Mr. Wallenstein confirmed that they are not increasing the non-conformity with regards to the setback. He asked if the Building Inspector has taken any action on this? Approved, denied? Mr. Hinthorne explained that initially it was denied but he has spoken to the applicant, and he does not see any issues with regards to zoning infractions.

Mr. Garber opened the meeting up to the abutters and others to comment.

Laura Nelson of 236 Edge Hill Road asked how many bedrooms the current structure has. Ms. Yeon stated that there are currently 3 bedrooms in the house, and it was sold to her as a 3-bedroom house.

Mr. Garber asked Ms. Yeon and Ms. Dunbar if they would like to close their case. Ms. Dunbar answered yes.

Motion:

Chair made a motion close Cases 1914 - 104 Massapoag Ave. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

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Motion:

Chair made a motion approve Cases 1914 - 104 Massapoag Ave, with standard conditions. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

Case 1915– 5 Goodrich Place

Present for the applicant Christopher and Lindsey Bailey, residents

Mr. Garber read the legal notice into the record, as well as a letter from Kevin Davis, Board of Health Agent dated February 27, 2023.

Mr. Bailey explained that they are proposing to build a screened in deck and patio. He explained that the reason for the screened in porch is that both of their children have allergies to bug spray, and they want a safe shaded area for them to play in during the summer. Ms. Bailey stated that whenever they go out, they have to wear several layers, etc. and she has several medical records to support this.

Mr. Garber presented the GIS plan which shows all of the plots in the surrounding area. 5 Goodrich Place is lot 192 and Ms. Bailey explained that the screened porch will be on the back side of the house facing Woodland Street toward lot 194. She explained that they could not go on the side toward Pond Street because that is where their leaching field is and the side by lot 191 is very close to the residents and would be encroaching there. Ms. Bailey explained that the porch will be overlooking the back yard toward lot 194 and will provide a safe space for the kids to be outside and get some fresh air. There are not any residents in that part of the lot, so it wouldn't be coming up next to anybody's residence on their lot.

Ms. Bailey explained that they already have a pre-existing deck in that area and that it's a natural exit point for the house. Mr. Garber asked what the patio was constructed of. Mr. Bailey stated that there isn't any covering on the patio, and it's just ground level made of pavers or brick.

Mr. Garber opened the meeting to the board members. Mr. Mehta inquired about the existing deck. The applicants explained that it was a small deck that leads to a walkway with steps. Mr. Mehta stated that he doesn't have any issues with construction but wanted to review the plot plans and review the required and proposed setbacks. Mr. Garber explained that this would fall under the special permit requirements. That the requirement isn't increasing the non-conformity. Mr. Mehta asked what the existing non-conforming setbacks are currently. The applicants stated that what they have currently isn't non-conforming. Mr. Mehta's concern is regarding the setbacks. Are we going to accept the 11.2' setback when the current setback requirement is 20'? This is something to be discussed.

Mr. Wallenstein stated that they want to extend into the setback another 9' which is pretty substantial. He compared the old bylaws with the new bylaws and stated that this case filed under the old bylaw. The old bylaw says the structure can be extended if it does not increase the degree of non-conformity, but this proposed structure does increase the degree of non-conformity. The new bylaw is more liberal, and it says if you want to extend alter or change a non-conforming structure you can get a special permit as long as the board finds that it's not substantially detrimental. Mr. Wallenstein expressed that this isn't approvable under the old bylaw, but it is approvable under the new bylaw. Mr. Garber stated that since the new bylaws have been in effect since May which is long before this case and everything filed after that should be under the new bylaw. Mr. Wallenstein stated that this was an easy change to make, and Mr. Garber explained that we can site the change in the decision. The board still has to make a finding that it is not more substantially detrimental.

Mr. Mehta stated that we need to discuss the difference from the old bylaw to the new bylaw and make sure it can be approved under the new bylaw.

Mr. Wallenstein read the new bylaw Section 5.5 – Nonconforming Single and Two-Family Residential Structures which states that nonconforming single and two-family residential structures may be extended, altered or structurally changed upon determination by the Building Inspector that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure, and that such reconstruction, extension, alteration or change does not increase the gross floor area of the structure by more than 100%. There are conditions that are listed under Section 5.5.1 – Permissible Changes which states that the following circumstances shall not be deemed to increase the nature of the said structure and a building permit may be issued. These circumstances are as follows: 1. Insufficient Area, 2. Insufficient Frontage and 3. Encroachment and if the Building Inspector determines that the proposed alteration, extension or change exceeds one or more of the criteria set

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forth, the ZBA may, by special permit, allow the alteration, extension or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. Mr. Wallenstein explained that under the old bylaw you cannot get a special permit even if the board found that it wasn't more detrimental. He mentioned that the new bylaw adopted a determination in a supreme judicial court case last May. This gives the Zoning Board more discretion for single and two- family residences on a case-by-case basis.

Mr. Garber asked if any abutters had any questions.

Laura Nelson of 236 Edge Hill Road asked if there was a diagram which showed the abutting properties in relation to the applicant's property, specifically the property that had a shed. Mr. Garber presented the GIS map and Ms. Nelson asked that because sheds and barns can potentially become accessory dwelling units will the construction of the new deck be really close to the existing shed, so that it would be a little more detrimental to the neighborhood? Ms. Baily shared a Google map which showed the proximity which will be 40-50' from the barn on the abutting lot.

Mr. William Darrow of 2439 Holt Street, Vienna, VA who is the owner of 9 Goodrich Place which is on the lot 4. He asked to see the elevations so that he can see how it will affect the tenants view and what the structure would look like. He stated that he doesn't have any objections. Mr. Garber explained to Mr. Darrow that he can see all of the plans and documents related to the case on the town website.

Mr. Garber asked the applicants if they want to close their case and they answered yes.

Motion:

Chair made motion to close Case 1915 – 5 Goodrich Place. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

Motion:

Chair made motion to approve Case 1915 – 5 Goodrich Place. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

Meeting adjourned 8:33 pm.

Respectfully submitted