

SHARON ZONING BOARD OF APPEALS

MINUTES OF WEDNESDAY, May 24, 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 on 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, May 24, 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, Peter O'Cain, Town Engineer, Tom Houston, PSC.

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 1918 – 17 Chestnut Street – Continued from April 26, 2023

Present for the applicant, Deepak Wadhwa, resident

Mr. Garber asked Mr. Wadhwa if he received the letter from the Historical Commission. Mr. Wadhwa explained that there was an agreement regarding the design, but it needs to be formally approved. The Historical Commission wasn't able to hold the meeting and asked that the Zoning Board continue the meeting to another date.

Motion:

The chair made a motion to continue Case 1918 – 17 Chestnut Street to June 21, 2023. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

Case 1906 – 299-303 North Main Street – Continued from February 15, 2023

Present for the applicant, Attorney Mike Khoury.

Mr. Garber explained that we would be discussing the minor modification and stated that after consulting with Town Counsel he got the approval stating that the ZBA has the authority to oppose rules and regulations of other boards as long as they don't render the development uneconomic.

Mr. Khoury gave a brief description regarding the minor modification. He stated that on February 15, 2023, the ZBA entered a decision for approval of the Comprehensive Permit for 299-303 North Main Street and at Section B.7(c)(2) there was some reference to numbers that the DHCD had found based on the market as they determined it at the time of the analysis. But this is changing, so we are seeking a minor modification to clarify that section by which the applicant can sell market units, not the affordable units. The DHCD confirmed in an email dated March 31, 2023, and a letter dated May 3, 2023, that no definitive dollar amount can or should be established for the market units in the decision, and they have approved the minor modification. We are requesting that the board approves the minor modification and has provided a proposed order amending.

Mr. Garber stated that Town Counsel was ok with the minor modification and asked Mr. O'Cain if he had any comments. Mr. O'Cain stated that he spoke to the DHCD to confirm that the letter was sent out by their office and that the applicants request is fully within the guidelines of the DHCD.

Mr. Garber opened the meeting for the board members. Mr. Mehta didn't have any questions or comments since this was just an administrative procedure. Mr. Wallenstein asked for clarification on what we are voting on. Mr. Garber explained that we are making a minor modification just in Section B.7(c)(2) regarding the market unit prices. The fixed number of \$900,000 will be removed providing that the market units are sold at a significantly higher price than the affordable units. Mr. Wallenstein had no comments.

SHARON ZONING BOARD OF APPEALS

MINUTES OF WEDNESDAY, May 24, 2023

Motion:

The chair made a motion to approve the minor modification to the decision for Case 1906 – 299-303 North Main Street. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

Case 1919 – 262-290 Edge Hill Road

Present for the applicant, Attorney Mike Khoury and Bill Buckley of the Bay Colony Group

Mr. Garber read the Legal Ad into the record.

Mr. Khoury gave a description of the project stating that they are proposing to develop a 20-unit duplex residential rental project to be constructed in 10 buildings. The property is an undeveloped parcel and there is also a parcel of about 1.3 acres that is between the development and the Town of Canton border, but it is not involved in the project and will be left as is. Mr. Khoury went to list the direct abutters surrounding the proposed development. He explained that the applicant is proposing to build 20 high-end residential rental units, eighteen of which will have 2 bedrooms and two will have 3 bedrooms. Four of the units will be designated as affordable, 1 of the 3 bedroom and 3 of the 2-bedroom units. The remaining units will be rented at market rates and the applicant will continue to own the property, manage, and maintain it. Each unit will be two stories to a maximum height of 33 feet and will have approximately 2200s.f. of living space, each with a two-car garage and a basement. The property is proposed to be connected with shared septic system to the southwest portion of the project. The homes will be built so that the closest duplex building will be 150-160 feet away from the roadway and the property will maintain a tree line. Mr. Khoury went on to state that a Traffic Impact Assessment Report was prepared and submitted by Gillon Associates, on May 18, 2023. Also submitted with the application was a Stormwater Management Report prepared by Bay Colony Group.

Mr. Khoury also gave a brief history of the process that upon their application to the Select Board, in May of 2021 the Select Board reviewed and approved as appropriate in scope, size and location the proposal under the local initiative program developed by the Massachusetts Department of Housing and Community Development. In June of 2022, the Select Board sent a letter to the DHCD endorsing the application for a Certificate of Eligibility. On December 13, 2022, after several discussions and site visits, the DHCD issued a Certificate of Eligibility under the LIP program.

Mr. Khoury went through the waivers requested in the application. They are as follows:

- (a) Approval under Sections 6.5.8, 10.3.2(5) and 10.5.1 of the Bylaw, of a Comprehensive Permit under Chapter 408, Sections 20 through 23 of the Massachusetts General Laws to permit the construction of the multi-family (20-unit) affordable residential rental development within the Rural-1 District and Groundwater Protection District designated by the Bylaw in which the Property lies;
- (b) A Waiver, Special Permit or other relief to Permit Maximum Lot Coverage of twenty-two percent (22%) where minimum separation is prescribed in Section 4.1.1 and 4.1.2 and Table 2 of the Bylaw of fifteen percent (15%);
- (c) A Waiver, Special Permit, or other relief of a minimum rear setback requirement of thirty (30) feet set forth in Section 4.1.1 and 4.1.2 and Table 2 of the Bylaw with respect to Buildings 3 (24.8 ft +/-), Building 4 (28.3 ft +/-) and Building 10 (22.4 ft +/-);
- (d) A Waiver, Special Permit, or other relief from strict compliance with respect to the provisions of Chapter 300, Section 7.2(C)(6) of the Sharon Municipal Code (Additional requirements for wastewater midsize systems) to permit the Development's midsize septic system to be built within 100 feet of a property boundary line and a building within the Development;
- (e) A Waiver, Special Permit, or other relief from strict compliance with respect to the provisions of Chapter 300, Section 7.5(F)(2) of the Sharon Municipal Code (Minimum Requirements for Subsurface Disposal of Sanitary Sewage) to permit which reserve areas between the leaching trenches serving the septic systems of the Development;
- (f) A Waiver, Special Permit, or other relief from strict compliance with respect to the provisions of Chapter 300, Section 7.7(A) of the Sharon Municipal Code (Depth to groundwater) to permit construction of a soil absorption system less than five (5) feet from high groundwater elevation in a Groundwater Protection District/Zone II;

SHARON ZONING BOARD OF APPEALS

MINUTES OF WEDNESDAY, May 24, 2023

- (g) A Waiver, Special Permit, or other relief from strict compliance with respect to the provisions of Chapter 300, Section 7.7(C) of the Sharon Municipal Code (Depth to Groundwater) to permit construction and maintenance of septic leaching fields mounded above existing topography;
- (h) A Waiver, Special Permit, or other relief from strict compliance with respect to the provisions of Chapter 300, Section 7.17(8)(1) of the Sharon Municipal Code (Minimum Requirements for Subsurface Disposal of Sanitary Sewage-Location-Minimum Distances) to permit the setback of a septic system serving the Development of less than 25 feet from the street line;
- (i) A Waiver, Special Permit, or other relief from strict compliance with respect to the provisions of Chapter 300, Section 7.17(8)(1) of the Sharon Municipal Code (Minimum Requirements for Subsurface Disposal of Sanitary Sewage-Location-Minimum Distances) to permit the setback of a septic system serving the Development of less than 50 feet from a street drain;
- j) A Waiver, Special Permit, or other relief from strict compliance with respect to the provisions of Chapter 300, Section 7.17(8)(1) of the Sharon Municipal Code (Minimum Requirements for Subsurface Disposal of Sanitary Sewage-location-Minimum Distances) to permit the setback of a septic system serving the Development of less than 25 feet from a water line;
- (k) A Waiver, Special Permit, or other relief from strict compliance with respect to the provisions of Chapter 300, Section 7.17(D) of the Sharon Municipal Code (Minimum Requirements for Subsurface Disposal of Sanitary Sewage-Location-Minimum Distances) to permit a septic system that generates more than six (6) gallons per day per 1,000 square feet of lot area in a Groundwater Protection District/Zone II.

Mr. Khoury also explained that they have had discussions with the Conservation Commission and the Building Inspector regarding a waiver of the Scenic Road Act. Mr. Garber stated that this may fall under the jurisdiction of the Select or Planning Board. He also explained to Mr. Khoury that he will have to send a list of the waivers to the Board of Health Department and Conservation Commission, and they will send a letter of approval to the board.

Mr. Garber explained that he reached out to the other boards and departments to see if they had any input regarding the proposed project. He read a letter from Josh Philibert from the Conservation Commission. **(JOE, DO YOU HAVE THIS LETTER? I DON'T SEE IT ONLINE).**

Mr. Khoury completed his presentation of the application.

Mr. Buckley from Bay Colony group presented and explained the existing conditions plan. He noted that the parcel is about 5.5 acres, 6 lots on Meadow Brook Drive and there is approximately 1187 feet of frontage from Edge Hill Road. He pointed out that in the middle of the site there is quite a bit of space between the property line and edge of the pavement on Edge Hill Road, about 120 feet. The golf course is to the north of the parcel, the cemetery is to the south and there are single family properties right in Canton and to the left in Sharon. There is also a wooded area on the edge near the country club fairway. Mr. Buckley explained that there are no wetlands on the site or within 100' of the site. Mr. Buckley explained that they have done some soil testing on the site and sent the test pits to the laboratory for septic and stormwater.

Mr. Buckley explained the access road to the property. It is 24 feet wide which is equivalent to a roadway and goes along the front of the 10 homes and there aren't any sidewalks. It is 921 feet long. Each house has a two-car garage, and you can park two cars in the driveway in front of the garage. You could have a total of 4 cars. There is additional parking around the site, and they believe that the parking is more than adequate for the facility. Mr. Buckley explained that each building is a duplex, and that the topography drops from front to back, so they made them walkups which allow for less fill along the back and allows a finished basement that walks into the backyard. Mr. Garber wanted to confirm that the buildings will comply with the 35 feet height limit and inquired how the drop would affect the height of the street. Mr. Buckley explained that if you were looking at them from the street it would be about 33 feet.

Mr. Buckley went over the utility plan for the site and stormwater management. He explained that they have to control the runoff with two underground drain systems and explained the stormwater management system in detail. He explained that roof runoff is considered clean and each out will have their own recharge system in their backyard for the roof runoff. He also explained that there will be one septic system for the entire project. The system will be located on the left side of the development, and it

SHARON ZONING BOARD OF APPEALS

MINUTES OF WEDNESDAY, May 24, 2023

will be a forced main system. Mr. Buckley also stated that they still have to meet with the fire department to talk about their requirements.

Mr. Buckley presented the elevations of the site.

Mr. Garber read a letter into the record from Kevin Davis, Board of Health Agent dated April 28, 2023, and a letter from Josh Philibert, Conservation Administrator dated April 21, 2023.

Mr. Houston introduced himself and presented the peer review report and went over the highlights. He explained that the initial report was submitted on May 15th, and everything was complete at that time except for the traffic study. He has amended the report to include an evaluation of traffic which was just submitted today. He explained that the approach to the project will be in great detail and some of the comments will be addressed during final design, but we would like to make sure that all of the issues are brought before the board for their consideration. Mr. Houston went through the report and highlighted the comments and stated that he would answer any questions.

Mr. Matthew MacDonald of 237 Edge Hill Road had a question for Mr. Garber, he wanted to know what the protocol was for community input. Mr. Garber explained that the ZBA is open to receive input from everyone, abutters, etc. Mr. MacDonald explained that this meeting was a lot to digest and is hoping that there will be additional meetings for the project. Mr. Matthew read the following statement into the record:

"Good evening and thank you for the opportunity to speak. My name is Matt MacDonald and I live at 237 Edge Hill Road. I should add that, to avoid confusion going forward, coincidentally my name is identical to the name of the Developer's "Authorized Representative" as shown on their Application to the Zoning Board of Appeals. Also, I feel I have an experienced perspective when it comes to these type of projects as I am a business owner and a real estate developer and I have designed and built 40B Affordable Housing, Group Home residences for people with developmental challenges, as well as numerous other residences and homes throughout the South Shore and South Metro areas.

In this case, however, I am an opponent of this Project.

As a life-long resident of Sharon and an Edge Hill Road homeowner for over 20 years, I am opposed to this 20 Unit Townhouse Rental development. I, along with the two direct abutters of this proposed project and many of the residents of Edge Hill Road, have been following the progression of this project since just after the Select Board issued an endorsement of this project on May 10, 2022. I say "just after" because that is when the residents became aware of this proposal. Abutters received no notice and no opportunity to comment.

Tonight, there are many in this meeting who oppose this project. I expect we will hear many objections to this proposal regarding the proposed density, the design issues, the rental real estate component, the quality of life issues for the neighborhood, the safety issues, the effect on traffic and pedestrian safety, and the effect on our groundwater, after all this development is within the groundwater protection district, which imposes many strict limitations on the development of this property.

In researching this development and attending various Board and Committee Meetings, two important positions became paramount in this discussion:

First, the Town of Sharon has worked diligently to achieve and then exceed the 10% affordable housing threshold. Everybody in this room should agree that this is a given. This Board is under no pressure or directive to approve this or any affordable housing project at this time.

Second, the Applicant's Attorney, in his only public presentation about this project that I have seen, again back on May 10, 2022 at the Select Board's meeting, touted the minimal affect of this project on anyone and the benefit of adding to the affordable housing inventory in the Town of Sharon and that it is the most beneficial use of the property for his client, which in my experience it would be, financially anyhow.

With a review of the many documents posted to the ZBA website for this case, it becomes apparent that what was purported in and around Town are not really the facts.

We need to look closely at several things –

SHARON ZONING BOARD OF APPEALS MINUTES OF WEDNESDAY, May 24, 2023

1. *There is a belief floating around the Boards and Departments that, as this is a rental development, that all 20 of the proposed Units count toward the Town's Affordable Housing Inventory. I am not an attorney; however, I believe there is a problem with this belief and that it is not true. If I am correct, then only the four designated affordable units qualify and two of those are used to offset the 18 market units, leaving only 2 units to help the Town's inventory to offset other development. This is not a material benefit to the Town.*
2. *The Pro-Forma for the project, the budget if you will, which is required by the DHCD in its analysis of the development's eligibility, and many of the estimates within that budget are, again in my opinion, incorrect. Important estimates, including property tax, cost of funds, construction costs, could materially affect the viability of the project.*
3. *The Pro-Forma also exceeds the allowable return on equity after the first five years. According to the DCHD, LIP Rental Programs are limited to 10% return on equity while the Applicant's Proforma clearly exceeds that limit.*

We all should remember what happened with Bella Estates, which turned out to be a failed project due to mis-estimations of the economic conditions and increased costs, and which ultimately put the Town in the precarious position of handling damage control for a failed developer. The damage done to that neighborhood and the inequity to the Town and its residents cannot be undone.

In this case, the land subject to this proposal is easily developed, by the Town Engineer's calculation, into between 3 and 6 lots without the Applicant asking for any special treatment or relief from Zoning requirements. The Applicant has viable options that fit in current zoning.

And the Town should be looking toward the future with development in the areas with transportation and service options, not out in the rural district where this proposal only benefits an applicant with a business entity that would not be allowed in the R-1 district and with a density that is 7 times that which is allowed under current zoning.

Respectfully, I ask that you, as stewards of the best interests of the residents of the Town of Sharon:

Please summarily deny this Application on the grounds that it does not offer any material benefit to the Town, that the Town is not required in any way to approve this project, and it is in the best interest of the residents to not change the character and rural nature of Edge Hill Road.

Smart development is part of the Master Plan for the Town and all of the Town Officials and Boards have worked toward exceeding our affordable housing goals. This project is unwarranted, detrimental to the character of a scenic road and a rural neighborhood, and offers no material benefit whatsoever to the Town of Sharon.

Thank you for the opportunity to make this statement and I also ask that each of you please keep the best interests of the residents of Edge Hill Road and the Town of Sharon at the forefront of each decision you make.

Thank you."

Mr. Garber thanked Mr. MacDonald for his statement.

Ms. Laura Nelson of Edge Hill Road was next to speak. Ms. Nelson explained that she had a list of facts and had some comments and questions on the presentation. Fact, on February 6, 2017, she became aware of a proposed 120-unit 40B project on the same parcels only by seeing an article in the newspaper. She was able to inform neighbors and attend a site visit with the Board of Selectmen and Town Administrator on February 14, 2017. Ms. Nelson explained that none of the Canton or Sharon direct abutters or any other neighbors were notified that there were on-going discussions about the project. The 2017 40B project was rejected. The neighbors were participating in discussions in 2017 with the Town Administrators and the Selectmen. As of her meeting with Peter O'Ca in last week, the Town of Sharon has been and still is above the necessary 10% threshold of affordable housing, this project should never have been approved or endorsed by the Select Board. While the Select Board is authorized to endorse projects like this, they do not have the authority to approve them. 268-292 Edge Hill Road are approximately 40,000 square feet in size and are on a scenic route in Rural District 1 with a minimum lot size of 60,000 square feet and a three-bedroom per lot maximum because they are in the Groundwater Protection District overlay.

SHARON ZONING BOARD OF APPEALS MINUTES OF WEDNESDAY, May 24, 2023

On April 4, 2022, Peter O’Cain emailed Fred Turkington and Bill Heitin, the ANR options (the email is available in the documents on the ZBA website for this case). One of these options is for the owner to use the land as-is resulting in three buildable single-family homes and this is the option that best fits the neighborhood and current zoning.

On May 6, 2022, the Selectboard agenda for their May 10th meeting was time stamped as received at 11:29 am by the Town Clerk. On Monday, May 9, 2022, the emailed agenda was timestamped in Mr. Nelson’s inbox at 5:05 pm. The agenda was for an in-person meeting for a Firefighter pinning ceremony and there was an agenda item “Consider and vote support for local initiative housing project – Edge Hill Road, a. Project eligibility notification”. No abutters or neighbors were notified that this project was under discussion, much less about to be supported. Mr. Nelson also stated to please remember that both Fred Turkington and Bill Heitin were involved in discussions with the neighbors regarding the rejected proposal in 2017 and also remember that a month previously Peter O’Cain emailed options to both Fred Turkington and Bill Heitin that would comply with the current zoning regulations for the R1 lots.

The developer finally reached out to the direct abutters by USPS with a one-page document notifying them of an information session to be held four days later at Brook Meadow. Several neighbors had attended that session and asked questions, the developer could not answer how many three-bedroom units will be built. The developer stated that they would have to review the traffic study data which was done in April during morning and evening peak hours. The study was done during school break, so it was highly likely that traffic was lighter than usual. The developer stated that the lot on 292 Edge Hill Road is not going to be developed as part of the proposed LIP but will be held for a later time. An approval of this LIP would set a dangerous precedent with the availability of that lot for a future time. The developer stated that they don’t want to comply with current R1 zoning regulations and build and sell single family homes, they are a commercial developer and don’t want to relinquish control of the land.

Ms. Nelson concluded by stating that this proposed 40B development provides no benefits to the abutters, the neighborhood, or the Town. It will only provide benefits to a developer that has perfectly good ANR options in front of them, but they reject them at the expense of the abutters, the neighborhood, and the Town.

Ms. Georgeann Lewis, 264 Edge Hill Road thanked the Board for hearing her and receiving all of her correspondence. She wanted to confirm that the Board had received her last correspondence and that it was put into the record and uploaded to the website. Mr. Garber explained that if it was sent to the ZBA Admin, then she would have it uploaded to the website. Mr. Lewis stated that it was a PowerPoint that was sent on Monday, May 22nd. At this point Mr. Garber hadn’t seen the email. Ms. Lewis gave an opening statement on behalf of herself and her family. She explained that she and her family moved to the Town of Sharon for the schools, for the nature and for the lake, as well as its emphasis on quality of life. Ms. Lewis also stated that they bought their house due to the quintessential New England charm with 2 acres of land. Our children have benefited from the Sharon Cooperative school and Cooperative Nature school. She emphasized how lucky the children are to have had this experience, and it would not have been possible without the citizens and boards protecting all of these community assets. She thanked all of the boards for their ongoing work to maintain the Town’s rich history, wetlands, forestry, green space, and all other conservation efforts. She also thanked the boards for the need to make Sharon affordable to all. She went on to state that she loved her wife, children and extended family and there is nothing she wouldn’t do to ensure their well-being and quality of life, as well as protect our investment, home and our land, the town and our schools. She stated that this project does not promote any of these things. It being approved does not align with anything for the town and it being approved through the lack of transparency is appalling and they in no way support this project and request that it be rescinded. She closed by stating that they do support building affordable homes, selling them, and allowing other families to benefit from what the town has to offer. She commented on the traffic study and explained that there are a lot of children on the street with a bus stop and has lots of video and is willing to provide. She stated that to say it’s congested at the intersection during peak times is an understatement and she will be bringing it up to the school committee and that the traffic study is in no way reflective of people that live here everyday and is nothing short of insulting.

Mr. Garber explained that if there was an error in the traffic report, it would be corrected. But based on the amount of work that Mr. Houston has done for the town, we have never had an issue with the traffic studies.

Ms. Siobahn Donahue of 443 Walpole Street, Canton explained they are direct abutters to the lot that is not going to be developed but it is part of the picture. Ms. Donahue explained that she didn’t want to repeat what everybody has already stated but she agrees with the neighbors that this project would not benefit anyone other than the developer and her biggest concern is that after being introduced to the original plan to build on this property back in 2017, we assumed that if there was going to be building done, it would probably be based on what was buildable by right and the current proposal is not that. She stated that they are using 40B to go around rules, to try and build something that works for them but doesn’t do anything for anybody else. She hopes that the board will look closely and

SHARON ZONING BOARD OF APPEALS

MINUTES OF WEDNESDAY, May 24, 2023

evaluate all of the information, especially the report by Mr. Houston since it was lengthy. Ms. Donahue also stated that since the town has already met its 40B requirement, this is something that they shouldn't even be considering this project.

Lois McCallin of 256 Edge Hill Road (3 houses away from the proposed development) noted that she agrees with the statements of her neighbors and wanted to go back to the approval letter sent by the Sharon Select Board where they stated that this project fits into the neighborhood. She wanted to mention that Edge Hill Road is a scenic road similar to Massapoag, Mansfield and East Foxboro and asked if anybody could picture this development on any of these other scenic roads. She asked that the board think about that and give Edge Hill Road the same consideration and to build a highly dense rental unit like this doesn't fit into the neighborhood. She thanked the board for their consideration. Ms. Donahue also stated that Walpole Street in Canton is a scenic road.

Mr. Garber asked Mr. O'Cain to comment on some of the issues that have been raised.

Mr. O'Cain stated that he feels for the abutters on this project and any statement he makes isn't to diminish their concerns. He explained that the experience he has had and to his knowledge these rental 40B projects do provide 100% of the unit counts with respect to affordability. He also explained that he has several technical items to go over with the applicant and Mr. Houston when they have their engineering staff meeting. Mr. O'Cain stated as a general observation of the project, he was curious as to why the structures couldn't be moved centrally into the lot since there was extra land. He went on to state that Lewis's seems to be at the brunt of the proposed 12' retaining wall and a 35' building looming over their property when there is a adequate land to shift the buildings on the lot.

Mr. Matt MacDonald, 237 Edge Hill Road followed up on Mr. O'Cain's comment regarding rental units in their entirety being put into the subsidized housing inventory. He explained that the way the project was approved by the DHCD and if you read their rules under the guidelines for 40B project, they don't have enough affordable units at 80% to meet that criteria to put all of the other units in as affordable. He stated that as submitted there are 4 units that will go into subsidized inventory and that Mr. Khoury can answer that and Town Counsel should take a look. They have to pay very close attention to the DHCD guidelines. Mr. O'Cain explained that these guidelines are very complex, and he will follow up and get back to the Zoning Board. Mr. Khoury stated to look at page two on the certificate of eligibility, explains that there will be 20 units, 4 will be affordable but all will be included in the subsidized inventory. He explained that this is the rule and that is the case. Mr. MacDonald interpreted the letter differently, the way it is written, it could be just stating that all of the 4 affordable units will be part of the inventory.

Mr. Garber opened the comments to the board members.

Mr. Mehta stated that this was the first time that the board had heard of the project and the design presentation was informative. There were a lot of professional reviews conducted as well. He also stated that there is a long way to go for the approval process and there are many serious issues and legal aspects that have been highlighted and need to be resolved.

Mr. Wallenstein explained that this is a project that needs some scrutiny. He stated that he had read all of the submitted correspondence including Mr. Houston's engineering review. Mr. Wallenstein stated for the record that this is an application of MGL 40B Section 21 and the Zoning Board of Appeals can issue a Comprehensive Permit that does not override but incorporates all local permits, so it's a single application. He wanted to discuss the scope of the ZBA's review because the applicant has asked for waivers and approvals under various sections of the bylaws which gives the board an idea of how broad the scope is. He had some concerns that need to be addressed regarding specifically regarding some of the increase in density in a rural area, the various waivers, the groundwater protection, nitrogen impacts, etc. Mr. Wallenstein also stated that he took a quick look at the traffic study, and he took a ride to the area, and he noticed that there aren't any sidewalks and he's not sure with those extra trips a day will make Edge Hill Road any safer for walking or bicycling. Mr. Wallenstein also had some concerns regarding potential fiscal impacts, added population to the schools, tax impacts to the town, etc.

Sarah Roth, 248 Edge Hill Road wanted to speak to the traffic. She stated that the traffic on Edge Hill is substantial and invited anybody to come down between 8-8:30 when trying to get the kids to the bus stop. It is dangerous and the parents have been witnessing all sorts of traffic violations, plus there is a lot of train traffic that comes through the area. Ms. Roth has a genuine concern that this project will increase the traffic.

Laura Nelson, 236 Edge Hill Road, agreed with what Ms. Roth was saying. She said the traffic is much worse than it was 5 years ago and that it is dangerous to try and get out of the driveway because of the traffic and people speeding on this road. People do not follow the speed limit and there isn't any enforcement so it's very dangerous. Ms. Nelson stated that there will be 42 bedrooms, 20 lofts and storage rooms with doors, which questions how many people and children will be living there. Also, there will potentially be 80 cars

SHARON ZONING BOARD OF APPEALS

MINUTES OF WEDNESDAY, May 24, 2023

plus the additional parking areas, so there will be significant traffic coming in and out of the development. She also asked what happens to the design if the setback decrease, which allows more frontage for the septic, isn't approved. Ms. Nelson also expressed concern as to how people will be notified if the pump alarms go off. There is no property manager or HOA. Mr. Garber explained that the issue was addressed earlier. Ms. Nelson also inquired about the scenic road waiver. She had never heard of one and would like to know what it requests, specifically if all of the trees are staying. Ms. Nelson also stated that she would invite anybody to come to her driveway to see how bad the traffic is.

Matt MacDonald, 237 Edge Hill Road, wanted to follow up with Mr. Wallenstein's comments regarding the Town's fiscal factors and the human factors. He appreciates his efforts to bring in these comments because this is what gets missed. He also mentioned a car accident that happened recently at one of the intersections and he stated that the traffic really needs to be looked at. He also mentioned the safety of the people that will be living in the development.

Ms. Georgeann Lewis, 264 Edge Hill Road thanked Mr. Houston for his report and stated that she really appreciates Mr. Wallenstein's perspective as well. She also stated that she appreciates Mr. Mehta and Mr. Garber. She asked as a direct abutter that the board really look at the setbacks, since this significantly impacts her property.

Mr. James Campisano, 11 Carbreyc Avenue inquired about the Scenic Road waiver. He wanted to understand what the waiver is and how you apply for it and how you get it.

Mr. Garber asked Mr. Khoury to answer this question regarding the Scenic Road Waiver and he asked Mr. Houston to answer the questions regarding the traffic counts.

Mr. Khoury explained that as he understands the Scenic Road statute, Chapter 40, Section 15.c, it pertains to removal of trees within the road layout in a scenic way. He stated that there will not be any trees removed from public property and he needed to confirm this with the Town Counsel. He gave him a legal brief that he is reviewing. He also stated that for every home built on Edge Hill Road, we would be able to remove the trees that we are proposing to remove for this project. The scenic road act does not prevent a property owner from building a home and removing trees necessary to build that home. Mr. Khoury stated that they aren't asking for anything that goes beyond what is doable. They aren't looking for waiver but are asking that the ZBA, under the Comprehensive Permit, act in lieu of the Select Board or the Planning Board and Conservation Commission. A Comprehensive Permit allows the Zoning Board, with the input of other boards, to issue approvals that would otherwise go to each board separately.

Mr. Houston addressed the traffic concerns that were expressed tonight. He stated that the traffic count that was reported in the submitted Traffic Impact Assessment said 2,550 cars per day. We had an issue with it because one of the days counted wasn't appropriate. He explained that all traffic counts, that standard practice is to take them under mid-week conditions, Tuesday, Wednesday, & Thursday. But for some reason the ATR count was taken on Thursday and Friday which may mean that Friday is typically less a mid-week condition. The 2550 recorded may be less than the actual count and if there is a genuine concern on the ZBA's part we could engage an independent traffic counting firm to take an ATR count.

Mr. O'Cain wanted to clarify the Scenic Road Bylaw information. He stated that the bylaw applies to trees between the front property line and the edge of the roadway which is called the Right-of-Way. The reason why the bylaw would apply to this project is because they would be bringing the driveway to the roadway which will require clearing trees. The question is can the ZBA waive the Scenic Road Bylaw?

Mr. Houston explained that the way the 40B process works is that the Board of Appeals acts as a super board, and it makes all the rulings regarding all local legislation.

Laura Nelson, 236 Edge Hill Road, stated that there weren't any 3-bedroom units noted on the plans. She also asked the question that if the front of the building is no higher than 33' but it is on a slope, doesn't that mean that the back of the unit would be taller and would exceed the 33' requirement of the zoning regulations. Mr. O'Cain stated that they take the average height from the mean grade. Mr. Garber explained that there is a formula to determine this and Ms. Nelson wanted to make sure that they were using this formula so that they were meeting the 33' requirement. Mr. Garber asked Bill Buckley if he could explain the formula. Mr. Buckley stated that he would have it for the next meeting. Mr. O'Cain stated that there is a calculation in the Building Code and Ms. Nelson said it would be interesting to see who this calculation applies to this set of units.

SHARON ZONING BOARD OF APPEALS MINUTES OF WEDNESDAY, May 24, 2023

Ms. Georgeann Lewis, 264 Edge Hill Road asked if the walkout basement is counted in the living space. She asked because its potential extra living space and she just wanted to have an accurate picture of what is going on. Mr. Garber answered to the best of his knowledge explaining that the building inspector issues the permit for a specific number of bedrooms and when the ZBA decides a case, the number of bedrooms is listed in the conditions. He also stated that you assume that people are doing the right thing.

Mr. James Campisano, 11 Carbreys Avenue asked if there was somewhere that shows the data of each day, time, and duration that the traffic study was done. He also asked if this project has an altered traffic plan to the current roadway, will they add stops or lights, or will the roadway remain as is? Mr. Campisano also asked for clarification of the waiver for the Scenic Road. Mr. Garber stated that this issue will be settled when Town Counsel reviews it. Mr. Houston explained that the traffic study indicated that the ATR count was taken on Thursday, April 13th and Friday, April 14th. They started the count at about mid-day on Thursday and ended it at mid-day on Friday. He stated that it was 24 hours, but they spread it out over 2 days which isn't unusual, but those 2 days should have been mid-week. The manual turning movement counts need to be clarified because it says in the text that they were taken on Tuesday, Wednesday & Thursday of the following week but you would only take those manual turning movements at one point in time or maybe two. There is some confusion as to why it says that the counts were taken in 3 days and the actual report has the numbers, but the days aren't labeled. Mr. Houston explained that they have asked for clarification.

Mr. Garber asked Mr. Houston to set up an independent ATR. Ms. Lewis asked that the intersection of Edge Hill Road and Dedham Street be included in this study.

Mr. Garber explained that we are in the initial phase of the project and there will be more meetings. He asked if anybody had additional questions.

Ms. Siobahn Donahue of 443 Walpole Street, Canton wanted to state that a walkout basement is an egress and could be included in the living space and this is a concern. These units are rentals so there is no risk of them being sold and they may jam in as many people as possible. Mr. Garber explained that rentals need to be inspected on an annual basis by the Fire Department and if they do an inspection and find an additional bedroom there will be consequences.

Matt MacDonald, 237 Edge Hill Road thanked Mr. Houston for advocating for an independent study and he also thanked everybody for their input.

Mr. James Campisano, 11 Carbreys Avenue had some additional questions regarding the traffic counts. Is the manual count more accurate or the TMC? Mr. Houston explained that they are the same thing. Mr. Houston explained that an ATR is a machine, and it should be more accurate. The TMC's are done by people there is more room for human error.

Mr. Garber closed the meeting by thanking everyone for their presentations and input.

Mr. Khoury stated that he will follow up with the Town Counsel and that he will reach out to Mr. O'Cain to schedule a meeting.

Meeting adjourned.

Respectfully Submitted