

SHARON ZONING BOARD OF APPEALS

MINUTES OF WEDNESDAY, June 21, 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, June 21, 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 and Michelle Katapodis, ZBA Administrative Assistant.

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 May 24, 2023

Present for the applicant, Deepak Wadhwa, resident

Mr. Garber stated that he spoke to Mr. Grasfield of the Historical Commission, and he hasn't had a chance to draft the letter but he will have it for our next meeting on June 28, 2023. Mr. Wadhwa stated that he had reached out to Mr. Grasfield but hadn't heard back. Mr. Garber stated that Mr. Grasfield will reach out to Mr. Wadhwa. Mr. Garber suggested that we continue to the next meeting on June 28, 2023.

Motion:

The chair made a motion to continue Case 1918 – 17 Chestnut Street to June 28, 2023. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

Case 1911 – 144 Old Post Road (Sharon Gallery Phase 2) – Continued from April 12, 2023 **Case 1911A – 144 Old Post Road (Sharon Gallery Phase 2)**

Present for the applicant, Attorney Robert Shelmerdine, Matt Smith of Norwood Engineering.

Attorney Shelmerdine introduced himself and gave a brief history of the project. He explained that they have responded to the comments from PSC's report and Mr. Houston will be going over the comments.

Mr. Houston stated that they had received the initial resubmission around June 6, 2023, and it has been a rolling submission with information coming in as recently as today. He explained that he had a chance to go through the majority of it but will still need to go through it and issue a report. Many of the original comments have been addressed and there are some remaining and new issues that need to be addressed. He stated that many of the comments he has are ensuring compliance with the zoning bylaws that have recently been recodified, specifically to Business District D.

Mr. Houston detailed each of the comments and responses. Comment No. 5 asked about the landscaping, and it has been partially satisfied. There is no indication of how these areas will be finished and they would like additional details. Mr. Houston expressed that he is concerned about the area at the entrance to the Clubhouse. There are conflicting vehicle moves in that area that need to be addressed. There are two ramps coming out of the garage, there are right turns from the main access road into the site, there are vehicles leaving and approaching from the east. There isn't anything there for pedestrian safety, there isn't a crosswalk and no pull-out area. This area needs to be refined for pedestrian safety. Similarly, the walk from the front of the Club House going up to Building C, crosses over the access road three times, this needs to be addressed.

Mr. Houston also expressed that there is no irrigation system that is compatible for this district. The directional signage isn't finished, bike racks need to be added. He stated that the lighting system has been well thought out, but would like the pole heights to be lower, they are currently 16 feet.

Mr. Houston explained that the applicant has addressed a number of comments and are satisfactory. There was some discussion about the noise levels and Mr. Houston explained that he has requested that an acoustical engineer evaluate the noise levels. He has also asked for post construction one day monitoring to assess the noise levels.

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There was discussion regarding the number of dwelling units and the variance that has been requested. The by-law has a ratio that the number of residential units are limited to 1 residential dwelling unit to 2,250 square feet of retail space. The proposal is for 156 dwelling units, and they have asked for a variance because that is 38 more dwelling units than allowed by the by-law. The project did envision up to 225 dwelling units in the original development agreement.

Attorney Shelmerdine explained that when they came into this project for Phase 2, there were two Masters. The first being the zoning bylaw and soon after we submitted our request, we filed a secondary supplemental application which is Case 1911A requesting a variance for that section of the bylaw. The other matter that they needed to attend to is the Development Agreement that was entered into with the Select Board. He explained that once COSTCO came onboard, it took up a lot of the square footage and parking. Because of this they had to review the Development Agreement terms, which is currently in front of the Select Board. Parking is what limits this development. The parking required for the COSTCO building took up a lot of the parking.

Mr. Houston continued the review of the comments. There are some concerns about the height of the buildings. The buildings are 4-stories with a peaked roof. The Town of Sharon uses the difference between the ground plain and the peak of the roof, this is a design issue for the Board to consider. There has to be help from the ZBA to resolve the conflict in the bylaw.

There was some additional discussion regarding the inconsistencies with the bylaws. Mr. O'Ca in pulled up the old bylaw and noted that there is an error in the dimensional table.

Mr. Houston continued to go through the comments and various issues that are outstanding. One of the outstanding issues is the landscape architecture plan showing the planting of evergreen trees and shrubs. Mr. Houston also stated that there is a construction issue, the plans show a wall that comes within 2-5 feet of the no cut zone and the wall is 25 feet tall. He is not sure that you can construct a wall that high in front of a no cut zone. He suggested that a structural engineer review this design.

There was discussion regarding the special permit request for the underdrains for the retaining walls. Norwood Engineering doesn't believe that the walls are below the water table. Mr. Houston wants this to be proven. He couldn't find the test pits data to establish that the wall is below the water table. Mr. Smith stated that Norwood Engineering will come up with a cross section and show the data to address this.

Mr. Houston mentioned that they are looking for source controls, like a prohibition on road salt, and a turf management plan. The applicant agrees with this but requested that this be a condition of approval. There are also several comments that discuss the infiltration facilities for the roof water. They have been redesigned to use an infiltration rate of 65 inches per hour, which is very rapid. He stated that there may have been some confusion interpreting the comments. He requested additional testing. Mr. Smith from Norwood Engineering stating that they would be agreeable to do additional testing.

There was some discussion on whether the drain piping within 10 feet of the building walls had to be cast iron. It was determined that this is the Town plumbing inspector's call. There was a question regarding the submission of the schedule for the SWPPP and the response was that it will be filed shortly after the receipt of Town approvals. There were some comments on sedimentation, and they have been addressed. Mr. Houston stated that he would send his notes to Attorney Shelmerdine and Mr. Smith.

There are several places in the response letter that indicate that various easements and cross easements and a Lot Owners Association document will be prepared by Attorney Shelmerdine. Mr. Houston asked about the status of this document. Attorney Shelmerdine stated that they have been held up due to an appeal but hoping it will be resolved soon. Once the appeal is settled, the permit will be in effect and COSTCO can proceed. He explained that COSTCO has their own legal team, and they will prepare the draft.

Mr. Houston stated that they asked for the details of the walkways, amenities, etc. all around the front entrance to the building. He stated that he would like some clarification because it appears that the only way to get front the main entrance parking level up to the level of the plazas that surround the buildings is to go through the community clubhouse, there aren't any exterior ramps or stairs. He wanted to know what happens if the community building is closed. He thinks using that community building is a good idea as long as it is open. Mr. Smith confirmed that Mr. Houston was correct and they did that to provide handicapped access and if the clubhouse is closed then people can get the elevator through the garage or guest parking areas. During off hours and the clubhouse is closed they wouldn't have a need to get up to the pool area.

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There was some discussion regarding the loading areas for people to move in and move out. Mr. Garber stated that these units are for purchase and across the street are rentals and they don't have a loading area where the turnover is more frequent. Mr. Houston agreed that it would be much less frequent than a rental facility. Mr. Smith stated that they will take a look at the issue. Mr. Houston brought up the need for some construction easements, etc.

Mr. Houston discussed the provisions for trash collection and recycling would be located inside the garages and is concerned that the trash collection trucks may not fit in the garage, and it can't do a dumpster change in the garage. He requested some clarification. Mr. Smith explained that they aren't the typical dumpsters and are smaller than the typical dumpsters. The trucks would be smaller. It's a specialty type of trash removal.

Mr. Houston concluded that the remaining comments are details and Bayside has responded to some of them. He noted that he owes a finished report.

Mr. Mehta stated that we are discussing many details that the Zoning Board doesn't have to get involved with to address a project approval. These details will be addressed later at an appropriate time when Building Permit documents are submitted. These are operational and detail design items/issues, not affecting project approval. Many of these questions aren't asked until 50-60% design level. We need to make the Zoning Board's project approval process efficient, and we can't do engineering at this level nor it is required. This isn't the time to address detail design issues, at the Zoning Board approval process. Mr. Mehta stated that he will prepare a detailed appendix which will outline the ZBA approval process.

Mr. O'Ca in followed up by stating that it may be helpful if the applicant could break the subject matter into Zoning specific items so that they can vote on the zoning matters and their decision will be conditional on the technical matters. If there is an additional condition that if the technical issues can't be resolved, they would come back to the ZBA for final determination. Mr. Garber agreed that this is a good plan going forward but he still wants the detailed report because he wants to be able to reference it for various reasons. Mr. Smith stated that he is very encouraged by this conversation and that makes a lot of sense and that the details should be left to the Town Engineer, etc.

Mr. Wallenstein stated that Mr. Houston is a tremendous resource for the Town of Sharon, and we are lucky to have him. He has a ton of institutional knowledge and is doing a great job. He agreed with Mr. O'Ca in that the issues that are directly connected to the Zoning Bylaw could be addressed in a separate report or part 1 of the report.

Mr. Shelmerdine stated that what they have typically done in the past, was when they get to drafting the decision, the front portion is the legal issues, reviewing the bylaws, what relief requiring, etc. Mr. Houston then adds the conditions in sequence, which helps the Town Engineer and Building Inspector. He agreed that many of the items in the report generally work their way into conditions. Mr. Shelmerdine suggested that we continue the meeting and let Mr. Houston finish the report. He asked Mr. Houston how much time he will need to complete the report. Mr. Houston stated that he could be ready for the July 26th meeting.

Motion:

The chair made a motion to continue Case 1911 & 1911A - 144 Old Post Road (Sharon Gallery Phase 2) to July 26, 2023. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

Minutes:

February 22, 2023
March 8, 2023
March 22, 2023

Motion:

The chair made a motion to accept the minutes from February 22, 2023, March 8, 2023 & March 22, 2023. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

A recording of the meeting in its entirety can be found on <https://sharontv.com/programs/government-meeting/>

Meeting adjourned.

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Respectfully Submitted