

SHARON ZONING BOARD OF APPEALS

MINUTES OF WEDNESDAY, September 20, 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, September 20, 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, David Abbott, Building Inspector, Fire Chief Michael Madden, 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 1911 - 144 Old Post Road (Sharon Gallery Phase 2)

Case 1911A – 144 Old Post Road (Supplemental Application, Sharon Gallery Phase 2, Residential Condominiums)

Case 1911B – 144 Old Post Road (715&715R South Main Street)

Mr. Garber read the legal ad into the record.

Mr. Garber read a letter dated September 8, 2023, from Kevin Davis, Board of Health Agent and a letter dated September 13, 2023, from Josh Philibert, Conservation Administrator.

Present for the applicant Ninety-Five, LLC, Attorney Robert Shelmerdine, Matt Smith of Norwood Engineering & Rich Hughes of Norwood Engineering.

Mr. Shelmerdine introduced himself and gave a brief history of the project and explained that there was a new application as part of this case. He stated that he wanted to divide the presentation into two parts. One for the engineering and Tom Houston's review and the second will be a review of all the relief they have asked for and explain why we have requested these items.

Mr. Houston presented his most recent report dated September 19, 2023. He explained that they had prepared two major reports regarding the engineering and most of those issues have been resolved as of July 31st. They prepared a memorandum of the remaining issues that were discussed at the August 14th workshop. Mr. Houston proceeded to go through the recommended conditions of approval and Norwood Engineering's response to comments. Mr. Houston highlighted several of the comments and noted the various issues, requests, and requirements. He also noted that there are conflicting issues within some of the bylaws that need to be resolved.

Comment #69 discussed the removal of 65,000-70,000 cubic yards which will require a lot of truck trips, so a truck management plan has been proposed. Mr. Garber commented that there is a bylaw restricting the removal of material from the town off of a site and the material has to stay in the town. Mr. O'Cain confirmed that Mr. Garber was correct and that there is an Earth Removal bylaw. Mr. Houston stated that what is shown on the truck management plan would be a less impactful solution for the town. Mr. O'Cain stated that the Select Board has the purview of that bylaw. This issue needs to be resolved.

Mr. Houston continued the review of the comments regarding the remaining engineering issues. He concluded that these issues have been well addressed at this point. Mr. Garber mentioned that with regards to the funding mentioned on comment #94 for the traffic signalization for the Wolomolopog St./South Main Street Intersection, would be a Select Board issue.

Mr. Garber asked Fire Chief Madden if he was satisfied with the report and asked if anything was missed. Chief Madden stated that everything seems to be covered well.

Mr. O'Cain mentioned that the Major Site Plan approval for Sharon Gallery already lays out who would be paying for the traffic signalization and agrees with Mr. Garber. He also asked Mr. Smith of Norwood Engineering if they had done any slope failure analysis on the rip rap slope and asked how high the grade change is. Mr. Smith replied that they have not done any slope analysis

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and the grade change is approximately 25 feet and explained that they have not done a detailed design yet. He stated that they would do this after the ZBA approval.

Mr. Garber inquired about the removal of the natural vegetation and asked if there will be a registered landscape design engineer to do a re-planting plan. Mr. Houston stated that K. D. Turner is the landscape designer, and they will tag any trees to be preserved and then introduce new trees and shrubs. Mr. Houston presented the plan which showed the rip rap slope and the location of the landscape strip.

Mr. O'Cain also stated that the cedar fencing maintenance along South Walpole Street be the responsibility of the applicant.

Mr. Dave Flagg, Commander of Sharon American Legion Post 106 on 727 South Main Street asked for somebody to explain what the intention is for the entrance to the building once the lights are put in, etc. Mr. O'Cain stated that he sent plans and Mr. Flagg stated that he hasn't seen them yet. Mr. O'Cain stated that he would be happy to meet with Mr. Flagg and go over the plans.

Don Williams of 1425 Bay Road Sharon, member of Sharon American Legion Post 106 mentioned that he did get some plans from MassDOT, and he would also like to meet with Mr. O'Cain and Mr. Flagg so they can go over the plans and be able to keep the members informed of proposed changes and impact to the Post.

Attorney Shelmerdine addressed a few points. First was the Earth Removal bylaw, he stated that they will have to go through the Select Board for this issue and this should be a condition of the decision. Second was the property agreements that Mr. Houston referenced in his report, he explained that these will be completed, and that COSTCO will be drafting these property and access agreements. He suggested that this also be a condition of the decision, reviewable by Town Counsel and the ZBA. The third point was regarding Wolomolopoag St./South Main Street Intersection. He explained that there was some discussion on whether or not a traffic light is necessary. It has been explored by the traffic engineers and the traffic that is going to be generated from this site turns out to be about 25% of the total traffic that will go through that intersection. This is also a Select Board issue, and his client would like to pursue it with them.

Attorney Shelmerdine presented the relief requested for the supplemental application for Case 1911B. He explained that this relief pertains to the new bylaws and that issues have presented themselves for the engineering and legal team which weren't anticipated when the original application was filed. Attorney Shelmerdine went through the requested relief which included Major Site Plan Review, several Variances, and a Special Permit. Some of the items are brand new requirements or restrictions specifically to the size of the private garages in Business District D. Mr. Garber is going to check with Town Counsel to see if that applies, he thinks it should be for residential. Attorney Shelmerdine continued going through the variances and explained that some of the new bylaws regarding the side yard setbacks have changed. The old bylaw provided for no setback. There was also a new requirement for maximum lot coverage. Mr. Garber stated that there are several that will have to be reviewed with Town Counsel. Attorney Shelmerdine continued reviewing the requested variances and explained the conflicted information and inconsistencies, in the bylaws. Mr. Garber suggested contacting Mark Bobrowski for further explanation on some of these new requirements, etc. Attorney Shelmerdine stated that when the Town was going through the codification process, he was assured that there weren't any changes to Business District D. Mr. O'Cain stated that he attended all of the meetings regarding the recodification, and he was told that there wouldn't be any changes to Business District D especially since the Town has some active projects. He was very surprised to see all of these changes and thinks that it would be fair to the applicant to go by the original zoning but wasn't sure of the legal aspect of that would be. These issues will be discussed with Town Counsel.

Attorney Shelmerdine concluded his presentation and stated that they would be looking for a 2-3-week continuance to go over the decision.

Mr. Garber opened the discussion to the board.

Mr. Mehta stated that the engineering has been addressed and the few items remaining will be handled in the detail design and didn't have any issues or concerns.

Mr. Wallenstein stated that Tom Houston's review was thorough and very helpful to the board. He had a comment on the traffic signal of Wolomolopoag Street regarding all of the extra traffic and despite with the traffic study says, you really need a signal light at that intersection, but the Select Board can determine who will pay for it. He also stated that it was helpful to go through all of the variances, etc. and that they will have to figure out how to handle the inconsistencies.

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Mr. Garber opened the meeting to abutters and residents. There were none.

Attorney Shelmerdine asked to continue the case to October 11th, this will give him time to finalize the decision with Tom Houston.

Motion:

The chair made a motion to continue Case 1911 & 1911A – 144 Old Post Road to Wednesday, October 11th, 2023.

Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

Minutes:

May 10, 2023

May 24, 2023

June 21, 2023

Motion:

The chair made a motion to approve the meeting minutes of May 10, 2023, May 24, 2023 & June 21, 2023. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

Meeting adjourned 8:54pm

Respectfully Submitted