

SHARON ZONING BOARD OF APPEALS MINUTES OF March 8, 2017

A regular meeting of the Sharon Zoning Board of Appeals was held on Wednesday, March 8, 2017 at 7:00 P.M. in the Second Floor conference room at the Sharon Community Center, 219 Massapoag Avenue. The following members were present: John Lee, Seth Ruskin, Abe Brahmachari, Joe Garber and Steve Cohen.

7:00 P.M. Mark & Ina Rabinovich, 459 Massapoag Ave, Case No. 1799, Continued Hearing

Mr. Lee read a letter from Jim Andrews, Health Agent for Engineering, dated February 27, 2017, stating that septic upgrade plans have been submitted and approved and a BOH permit #9950 has been issued.

Applicant asked to close the hearing.

Mr. Garber moved to close the hearing. Mr. Ruskin seconded the motion. The board voted in favor of closing the hearing (5-0-0).

Mr. Garber moved to approve the plans for Case No. 1799 at 459 Massapoag Avenue with standard conditions, a special condition of the home remaining a three (3) bedroom home, and BOH permit #9950 for a septic system to be constructed as part of the permit. The plans include a plot plan dated December 16, 2016, and architectural plans dated November 10, 2016, by Knack Inc. of Chestnut Hill, MA. Mr. Ruskin seconded the motion.

The board voted 3-0-0 in favor of the plans (Lee, Ruskin, Garber).

7:04 P.M. Cumberland Farms, 433 South Main Street, Case No. 1753A, New Hearing

Mr. Lee read the Legal Notice, a letter from Jim Andrews, Health Agent for Engineering, dated February 28, 2017, and a letter from Greg Meister, Conservation Administrator, dated March 1, 2017.

Mr. Troyer, attorney for Cumberland Farms, explained that the applicant is returning after a year of operation, as per a condition in a previous Special Permit, to review the hours of operation and to request to maintain the hours of operation from 5:00 am to 10:00 pm.

Mr. Lee referred to a Petition, submitted as part of the application that supports hours of operation from 5:00 am to 10:00 pm.

Dana Turransky of 8 Mark Road supports the current hours.

Mr. Steve Rosenbaum of 16 Boyden Lane, and Mr. Robert Hoffman of 7 Elliot Street both stated that the earlier hours were detrimental to the neighbors, but that is part of living next to a business.

The following abutters at the hearing did not support the current hours of operation and requested a change to a 6:00 am opening: Linda Waller of 19 Walpole Street represented by Mr. Sweetman, Viktor Kartashev of 434 South Main Street and Tatyana of South Main Street.

The abutters requesting a 6:00 am opening cited issues such as: loud radios, truck parking along Walpole Street on both sides, being woken up by cars and trucks prior to 5:00 am, lights left on, idling vendor trucks, and deliveries at late hours. Pictures and a list of incidences were submitted.

Mr. Troyer explained that complaints at the opening of the business, about 18 months ago, were addressed by his client, Cumberland Farms, and that he has not been made aware of current complaints. He also expressed that Cumberland Farms is responsive and takes complaints seriously.

The store manager stated that initial issues were fixed. He stated that vendors were instructed to make deliveries 9:00 am and after and that there are no deliveries made at 4:30 am.

The general consensus of the board is that the occurrences cited between 5:00 am and 6:00 am appear to be detrimental to the neighborhood.

On behalf of Cumberland Farms, Mr. Troyer asked to continue the hearing until April 26, 2017.

Mr. Sweetman agreed to provide information to Mr. Troyer.

Mr. Lee stated that the hearing is about the hours of operation and asked Mr. Troyer to provide data of fuel deliveries for the past six (6) months.

8:12 P.M. 635 Old Post Road – 40B, Sharon Residences LLC, Case No. 1472

Mr. Lee is an abutter and stepped down from the board.

Mr. Ruskin explained this case is in front of the board due to a Stop Work Order issued by Joe Kent, Building Inspector, to Diamond Builders at Landmark Pointe, 635 Old Post Road.

There have been at least 11 complaints of violations at 635 Old Post Road to the Building Inspector, hence the Stop Work Order.

Mr. Devin, attorney for Diamond Builders, stated that there was a problem and now Diamond Builders has a plan in place to control the issues. He submitted a plan to the board.

An abutter, Ann and Dick Daley of 909 Old Post Road, Walpole, stated that there were early deliveries, the noise is deafening, drainage problems, truck noise, and appreciates a new plan.

Mr. Lee of 509 Old Post Road stated that the builder does not have permission to use the parking lot at Mick Morgan's on Providence Highway as per the new plan.

Mr. Devin says the Builder will speak with Mick Morgan's and will send an amended letter and he thinks the plan is enough to lift the order.

Andrew Delaney of 859 Old post Road, Walpole, stated complaints about no police detail or flagman during truck movement, sanitary trucks arriving on a Saturday in the summer, mud on the roadway, temporary fence is a liability, safety issues, in addition to noise complaints. He suggested the site be reviewed, a traffic mitigation plan, and a safety plan. He stated that pictures have been sent to state parties such as OSHA.

Dmitriy Delych of Diamond Builders stated that the site has been visited by various parties such as the electrical inspector, Conservation Agent, BOH, Town Engineer and OSHA and that there have been no concerns. Also, that they consider community safety in all that they do.

An abutter at 901 Old Post Road, Linda Norton, asked if the plan submitted had been approved by the Building Inspector.

Ms. Norton addressed the level of trust is in question. There was no supervision when wetlands were torn down and site should be supervised properly.

After much discussion Mr. Ruskin read a letter from Diamond Builders addressed to contractors explaining a new plan regarding deliveries. It states that deliveries must be made between 9:00 am and 3:00 pm, the new work start time is 7:45 am, and anyone arriving prior to the start time must wait at Mick Morgan's parking lot.

The board decided to not lift the Stop Work Order, Diamond Builders should revise the plan, Chief of Police will be consulted, and the Building Inspector will be invited to the next hearing.

The applicant requested to continue the hearing on March 22, 2017.

9:00 P.M. Michael Morrissey, 28 Capen Hill Road, Case No. 1800 – New Hearing

Mr. Lee read the Legal Notice, a letter from Jim Andrews, Health Agent for Engineering, dated February 27, 2017, and a letter from Greg Meister, Conservation Administrator, dated March 1, 2017.

Mr. Fishman, attorney for the applicant, handed out a revised plan which included added skylights. He explained the one story house will be torn down and reconstructed as a two story house. The 3 bedroom home will remain with a 2 car garage and wrap-around porch. The area of the house is currently 1381 square feet and will increase to 2293 square feet. The setbacks are compliant and the lot is nonconforming. The impervious coverage was calculated to be about 5%.

Linda Harris, an abutter, of 75 Morse Street supports the project.

An abutter, John Deszendeffy at 71 Morse Street, questioned the property line in the rear. The rear property line is well beyond the required setback.

Applicant asked to close the hearing.

Mr. Garber moved to close the hearing. Mr. Ruskin seconded the motion. The board voted in favor of closing the hearing (5-0-0).

Mr. Brahmachari moved to approve the plans for Case No. 1800 at 28 Capen Hill Road with standard conditions, a special condition of the home remaining a three (3) bedroom home. The plans include a plot plan dated January 6, 2017, and architectural plans dated December 28, 2016, by CME Architects, Inc. of Plainville, MA. Mr. Garber seconded the motion.

The board voted 3-0-0 in favor of the plans (Lee, Ruskin, Brahmachari).

Minutes:

Mr. Ruskin moved to approve the minutes of February 8, 2017. Mr. Lee seconded the motion. The board voted 3-0-0 to approve it.

It was moved, seconded, and voted to adjourn. The meeting adjourned at 9: 20 pm.

Respectfully submitted,

Approved March 22, 2017