

SHARON ZONING BOARD OF APPEALS

MINUTES OF WEDNESDAY, December 13, 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, December 13, 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 and Rob Maidman, Planning Board.

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 1925-2-4 Merchant Street-Special Permit Review

Present for the applicant, Attorney Matthew Porter, applicant, Brian Striar, Kapnos Inc., Robert Boynton, Caldwell Engineering.

Attorney Porter stated that they are requesting the renewal of the Special Permit for the Cultivation license for Kapnos, Inc. No alterations have made to the exterior of the building, but some interior changes have been made with the new plan provided.

Mr. Mehta feels this is just a straightforward scenario and has no questions or issues with renewal.

Mr. Wallenstein requested a brief refresher of the case and questioned if this was the building with the odor issue. Mr. Strayer responded that this building is not the one with the odor issues and that they have implanted extra filtration systems. He explained that this building is strictly cultivation, with no retail sales or manufacturing.

Mr. Garber stated that this is just administrative, a renewal of the Special Permit for two years.

Mr. O'Cain stated that he is unaware of any outstanding issues with the building.

Motion:

The chair made a motion to renew the Special Permit for two years on Case 1925- 2-4 Merchant 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- Continued from October 25, 2023

Present for the applicant, Attorney Mike Khoury, Bill Buckley, Bay Colony Group, Matt McDonald, applicant

Mr. Garber read a letter from Matt McDonald, residents, and a butters, dated 12/12/23 into the record, requesting a Continuance for the Hearing on December 13, 2023. After discussion, January 10, 2024, was agreed upon by all.

Mr. Mehta stated that he had a chance to read Mr. Khoury's memo and screen shared the memo dated 12/8/23 summarizing responses to the major issues noted. He outlined the detailed information submitted by Mr. Khoury. He wanted to make sure everyone had the same information to look at for next hearing.

Mr. Wallenstein spent time reading memos and other pertinent information that Sharon is above the 10% minimum requirement for 40B, and the fact that the board may have the authority to issue a Comprehensive Special Permit but is not obligated to.

Laura Nelson, 236 Edgehill Road, stated that she feels that is unfair that Mr. Mehta got to provide his comments this evening after the conversation had already started about the continuance, because there were some other people on the call who were neighbors who had dropped out of meeting, thinking that it was being continued and were unable to hear the comments. She also questioned whether Mr. Mehta's document will be posted today or tomorrow, so all can view and read it, in addition to Mr. Khoury's document. She noted Mr. Mehta's comment pertaining to this "keeping with the neighborhood", as actually non-factual and the fact that this is a single- family residential zone and the project is a commercial rental development. She also questioned what the board actually votes on. Does the board vote on the modified permit plan which includes 292 Edgehill Road

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or what is said at meetings. She feels that the Modified Permit plan should be updated to reflect and identify what this project will be and who the current owners are, because this document still lists the previous owners.

Mr. Garber stated that anything shared tonight will be uploaded to the webpage for viewing. He also mentioned that the meeting is being recorded, so that anyone who dropped off can see what had been missed.

Rob Maidman, 52 Wilshire Drive, Planning Board Liaison for ZBA, addressed a question toward Mr. Geleman, stating that it was his understanding that when a hearing is continued, there is no further official discussion that can take place as a part of the meeting. As, that's the way it has always been done with the Planning Board. Mr. Geleman replied that the Board had not yet voted. Mr. Garber re-iterated that he only got as far as to make the motion and didn't vote. Mr. Maidman also stated that he felt Mr. Khoury's reference to the Town of Sharon actively seeks LIPs was incorrect and that this one is the first proposed in the last five years. He feels it should be corrected. Mr. Maidman asked Mr. Garber that when the vote is taken, is the board able to specify an order of conditions to go along with the approval, as have been done with other projects. Mr. Garber replied yes that it can be done and will be done. Mr. Maidman feels that an inclusion should be a landscape mitigation, particularly in the form of trees. Mr. Garber advised that he send a synopsis of what conditions he would recommend.

Mr. O'Ca in addressed Mr. Geleman, mentioning that they have six waivers identified from the Board of Health and one from the Planning Board. He questioned a comment from Town Counsel stating that the Zoning Board had rights to provide these waivers and wanted to clarify if this process is accurate. Mr. Geleman stated that the various boards should send comments to the Zoning Board and that they have the right to grant waivers. Mr. O'Ca in questioned Mr. Garber asking if the Zoning Board had received any comments on the six waivers requested by Board of Health and one from Planning Board. Mr. Garber was unsure and will check through file tomorrow. Mr. O'Ca in will send a summary of waivers to the Board.

Mr. Khoury agrees with Ms. Nelson pertaining to continuing discussions when people have dropped off being unfair and asked if there are any other neighbors or residents who did not receive his memo sent on December 8, 2023, he would be glad to send it to them. He also wanted to clarify that there in fact are other current LIP applications, clients that have filed and other lawyers currently filing as well.

Georgeanne Lewis, 264 Edgehill Road, asked if Mr. O'Ca in could forward a copy of the six Board of Health and one Planning Board waivers that were requested for review. Mr. O'Ca in stated that he will send. She also asked if the Board in the interest of the town, they could take a look around at the other LIP projects when contemplating their decision.

Jennifer Lewis, 264 Edgehill Road, questioned what actually gets voted on, the original application, or the conversations and changes made. Mr. Garber explained the application process and how the applicant presents a set of plans, plot plans and a presentation. LIP applications are a bit different and more involved. The representing attorney will present the case, break down all of the zoning regulations and provide information from engineers, architects, etc. The Zoning Board votes on everything pertaining to the zoning. If relief is needed on a specific zoning issue and the board deems it viable, it is voted on and granted.

Motion:

The chair made a motion to continue Case 1919-262-290 Edge Hill Road to Wednesday, January 10, 2024. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

Ms. Nelson wanted to confirm that the Board votes on the document that is presented, not on conversations. Mr. Garber agreed that the most current documents are voted on. Mr. Khoury stated that it has been amended in a prior letter. He stated that Mr. Geleman has already approved this.

Other Business:

Quail Ridge Homeowners Assoc Request to Amend Decision 954 Regarding Obligations for Maintenance of Sewer System-Mr. Garber read a letter dated November 16, 2023, from Barry Fogell Quail Ridge HOA requesting the board waive conditions pertaining to the maintenance of sewage systems. He stated that Mr. Geleman has already approved this.

Motion:

The chair made a motion to accept letter from Barry Fogell, Quail Ridge Homeowner's Association. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

Minutes:

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June 28, 2023
July 19, 2023

The chair made a motion to accept the minutes from June 28, 2023, and July 19, 2023. Mr. Mehta seconded the motion.
Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein

Meeting adjourned.

Respectfully Submitted