

SHARON ZONING BOARD OF APPEALS MINUTES OF MARCH 27, 2019

A regular meeting of the Sharon Zoning Board of Appeals was held on Wednesday, March 27, 2019, at 7:00 P.M. in the Second Floor conference room at the Sharon Community Center, 219 Massapoag Avenue. The following members were present: Seth Ruskin, Abe Brahmachari, Joe Garber, Steve Weiss, Steven Cohen, and Barry Barth. Mr. Barth arrived at 7:20 PM.

7:02 P.M. Sky Digital, LLC, 395 Old Post Rd. Case No. 1837 – New Hearing

Mr. Ruskin read the legal notice into the record. Case continued to April 10, 2019, at request of applicant.

7:05 P.M. Carroll Advertising, LLC, 9 General Edwards Hwy., Case No. 1835 – Continued Hearing

Hearing was continued from March 13, 2019 to tonight. Mr. Ruskin read the Legal Notice stating applicant seeks sign permits and approvals with respect to the construction of a billboard.

The following individuals were also at the meeting: John Carroll, Carroll Advertising, LLC; Joel Fishman, Esq.; Dan Merrikin of Legacy Engineering.

Mr. Fishman stated that due to a mix up with notifying abutters in Walpole, Case No. 1835 was continued from March 13, 2019, but the abutters have now been notified.

Carroll Advertising previously had 9 General Edwards Hwy. sign permit from Decision dated June 4, 2014, but then applicant secured 4 General Edwards Hwy. sign permit (for property across the street) so subsequently, and at applicant's request, 9 General Edwards Hwy. was revoked.

With respect to this particular site, Sharon Zoning Bylaw Section 2475 reads that any structure in light industrial district must be 100 feet from residential property line and have a 50-foot vegetative buffer for effective residential screen.

Mr. Ruskin read legal ads into the record: and a letter from Kevin Davis, Agent of the Board of Health, dated March 6, 2019, and letter from Greg Meister, Conservation Administrator, dated March 6, 2019.

Mr. Merrikin presented aerial overview: There's a need to shift the billboard 10- to 15-feet away from the road to meet required setbacks under electrical codes due to some power lines. Will still have at least 120 feet to lot line and close to 200 feet of buffer between sign and residential properties. Coming off of Route 1 grade goes up 10- or 15-feet and then there are 50- to 60-foot trees. Billboard is 45-feet tall so will be below tree line and face both North and South for Route 1 traffic. It's 615 feet to the next billboard going northbound.

Per Mr. Fishman, billboard previously approved on original application was 1,175 feet from intersection of Rt. 1 and Rt. 27, this one will be 1,350. Previously approved billboard was 54-feet high, this one is only 45-feet high. Because the billboard across the street at 4 General Edwards Hwy. is now digital, they are asking that 9 General Edwards Hwy. be static on both sides.

Mr. Ruskin clarifies with Mr. Fishman that they come here first and then go to State for approval. And, reminder that Town of Sharon has no restrictions on spacing, but State requires 500 feet between static boards. They have shifted billboard South, so have 615 feet and meet criteria.

Previously they were limited to 8 billboards by agreement with the Selectmen, but that agreement has been satisfied. Attorney asks for one clarification regarding burying the wires in front of the billboard. Attorney provided memo with 15 reasons why they don't need to bury wires. No variance in height or size requested.

Applicant asked to close the hearing for Case No. 1835.

Mr. Ruskin moved to close the hearing. Mr. Ruskin confirmed that Mr. Fishman will write Decision for this Case for Board's review. The board voted in favor of closing the hearing (5-0-0). (Mr. Barth was not present.)

Mr. Ruskin moved to approve the application and plans for Case No. 1835 at 9 General Edwards Hwy. with Mr. Fishman to write the Decision for Board review. The plans include a site plan dated February 2, 2019, from Legacy Engineering and architectural plans dated October 21, 2013, by RMG outdoor Inc., Phoenix AZ. Mr. Brahmachari seconded the motion.

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

Request for Clarification: Mr. Ruskin asked Town Counsel, Lisa Whelan, who was present, for Billboard clarification. Town Counsel advised that a sign for a business that is on-site is not a Billboard. Bylaw has definition of billboard which is advertising an off-site entity; it doesn't affect Best Western doing its own thing. Counsel for Case #1837 was present as well, Robert Shelmerdine, Esq.

7:20 PM Board Member, Mr. Barth, arrives to meeting.

**7:20 P.M. Four Daughters Compassionate Care, Inc.,
1200 General Edwards Hwy., Case No. 1840 – New Hearing**

**7: 20 P.M. Four Daughters Compassionate Care, Inc.,
2-4 Merchant Street, Case No. 1841– New Hearing**

Town Counsel, Lisa Whelan, and Applicant's attorney, Joel Fishman, agreed that the two cases should be opened together.

Mr. Ruskin read the Legal Notices for Case No. 1840 seeking further modifications of the Decision on Application for Special Permit, Case No. 1797 as modified by Modified Decision on Application for Special Permit, Case No. 1830 and for Case No. 1841 petition for a special permit relative to the retail operation of a Registered Marijuana Dispensary and a retail Marijuana Establishment including a variance and modifications of the Decision on Application for Special Permits, Case No. 1535 with respect to the property located at 2-4 Merchant Street; a letter from Greg Meister, Conservation Administrator, dated March 20, 2019, and a letter from Kevin Davis, Agent of the Board of Health, dated March 21, 2019.

The following individuals were also at the meeting: Joel Fishman, Esq.; Lisa Whelan, Esq. by request of the applicant; Bill Buckley, Project Engineer with Bay Colony Group; Brian Striar, Lynn Striar, and Stan Rosen, all of Four Daughters Compassionate Care, Inc.; Taso Giannopoulos, who is the manager of the LLC that owns 2-4 Merchant Street, and Jason Lamb, Owner of Vinovations.

Attorney for applicant requested that previously approved 1200 General Edwards retail component for medical and recreational marijuana be shifted to 2-4 Merchant Street and 1200 General Edwards be used for cultivation processing, and manufacture. He stated that 2-4 Merchant Street is a better location because, while it has frontage on Rt. 1, it has access from Merchant Street which allows for better access for customers.

Bill Buckley, Project Engineer, presented plans for 2-4 Merchant Street. The proposed warehouse and retail office component be located in the yellow portion 8,300 sq. ft. of building. They have 61 parking spaces but proposed to build three (3) more parking spaces in front to get to 64 necessary spaces for zoning. Deputy Fire Chief wants access completely around the building for fire apparatus, so they proposed connecting the two parking areas in the back. This means fire trucks won't need to back out.

They calculated to need 24 parking spaces for Four Daughters Compassionate Care, Inc. Twenty-four (24) spaces will be dedicated space for their use under zoning. Mr. Buckley addressed concerns of busy times by having circular access around building where they can queue 23 cars without blocking any parking or putting cars out on Merchant Street. Employees will park at 1200 General Edwards Hwy.

A Hindu religious property is located within 400 feet to property line on Commercial Street. At closest point it's 385 ft.-- about .03 acres out of 8.3 acres of the Hindu religious property is within 400 ft. Between buildings is about 695 feet, request for a variance of 15 feet.

Attorney confirms that Hindu Temple not in sight line. Asked for variance of 3.75% and Mr. Fishman suggested it's a diminimus amount. Even though not legally required to do it because they aren't abutters within 300 feet, Mr. Fishman sent notice of the hearing to BAPS Swaminarayan Temple, 4 Commercial Street. Notice included in handouts along with Certificate of Mailing stamped on March 9, 2019. No abutters present. Mr. Fishman has not heard from abutters in response to his letter.

Mr. Ruskin asked Town Counsel to cover variance conditions. They are:

1. Show lot is unique
2. Substantial hardship if variance is not granted
3. If variance is granted it will be substantially harmful to the surrounding community

Town Counsel believes case in Wellesley that went before SJC applies here. There are other cases where not granting is unreasonable because it's such a small dimiimus difference.

Steep drop from 2-4 Merchant Street to 1200 General Edwards Hwy. Employees will need to be shuttled. The public will not park at 1200 Gen. Edwards. To bring merchandise to 2-4 Merchant Street there are 2-3 pages of rules regarding transportation of product. Vinovations and EnviroTrac Ltd. are still in building.

Mr. Ruskin asked have State police weighed in on this? Mr. Fishman recommended wording of Decision specify that Sharon Police Chief has to agree to conditions.

Jason Lamb of Vinovations, 2-4 Merchant Street, shared that game day traffic is maybe for a half hour or hour after the game ends. The lighting in the parking lot is sufficient in his opinion. He only gets 4-6 customers and sells wine so he sees it as an opportunity. Parking is ample.

Board members concerned about parking lot lighting and safety and cameras on the building. Mr. Giannopoulos said they will rely on professional staff to say what they need and then have a meeting

with the Police Chief. Mr. Weiss notes that roadway connection to be added in the back probably not lit up. Mr. Giannopoulos said they want to do best by town. Once Chief signs off on traffic and parking and lighting, Mr. Brahmachari and Mr. Weiss want to see a photometric study as a condition. Or, make lighting a condition subject to approval by town engineer, fire chief, police chief, and building inspector per Mr. Fishman. Mr. Brahmachari noted that it's a different kind of building, so a review of plan for exterior lighting by the town engineer warranted. Mr. Barth wants police to look at traffic and parking.

Mr. Fishman brought Boards' attention to signage. Assuming they move forward with variance, next item is a variance with respect to the sign. One wall sign is allowed -- if it doesn't exceed 30 square feet. Currently two signs on building. They want to do one similar to EnviroTrac sign. No variance needed for this.

With respect to a free-standing sign, Board can approve a free-standing sign when the sign on the building can't be seen. Current bylaw says sign can be four square feet. When bylaws amended for recreational marijuana, signage wasn't updated. Requested to use existing Mass Tile (which has now moved out) 90- by 30-inch pylon sign, and suggested that bottom panel that says Humbolt would say 2-4 Merchant Street.

Mr. Barth asked Town Counsel what is variance for creating a sign? She responded same as Zoning variance which we just discussed. They are asking for a variance on a bigger sign. They are not requesting usage of digital reader board and not even sure they are allowed to.

Last issue: Modify the existing Special Permit, Case No. 1535, special condition No. 9 states retail sales are prohibited. So they are asking that provision from Decision in 2005 be deleted.

That's all on 2-4 Merchant Street.

Mr. Buckley, Bay Colony Group presented 1200 General Edwards Highway as no change to building plan or outside of building. They removed 2,400 square feet of retail. Major change to first floor is that retail has changed to packaging, drying, curing. On second floor, offices are changed to storage.

Mr. Fishman requested that, assuming Board agreed, medical retail and recreational retail can be moved to 2-4 Merchant, all 1200 General Edwards retail be eliminated. And also that Special Condition 1 and 2 from 1200 General Edwards be moved to 2-4 Merchant Street.

In response to question by Mr. Brahmachari, the applicant confirmed traffic flow at 1200 General Edwards for the employees can operate 24 hours a day, 7 days a week if they choose. Mr. Fishman clarified requesting to clean up and get rid of retail mentions for 1200 General Edwards Hwy. Finally, regarding signage, without retail they no longer need the building sign, so they will get rid of the sign per Mr. Striar. Requesting same hours. And, Special Conditions 1 and 2 said they had to work something out with Police Chief with respect to the Gillette Stadium events when Route 1 traffic is a concern and they will agree to same for 2-4 Merchant Street.

Town Counsel said we have a good basis here.

Mr. Fishman stated they will have to modify existing and then consider two variances. Mr. Brahmachari mentioned traffic, parking, and overall safety need to be addressed in Decisions.

Applicant asked to close the hearing.

Mr. Ruskin moved to close the hearing. Mr. Brahmachari seconded the motion. The board voted in favor of closing the hearing (6-0-0).

Mr. Fishman will write the Decision. And, 2-4 Merchant Street will be a motion to accept the application as filed. Mr. Fishman didn't specifically request sign variance, but under #4 Special Conditions there is "catch all language." Motion is to accept application as filed and relief as requested to grant a variance on the free-standing sign for them to be able to use the pylon as it exists.

Ms. Whelan confirmed two Decisions for 2-4 Merchant Street need to be made:

- 1) Modification of 2005 to eliminate "no retail sales."
- 2) Motion to eliminate the "no retail sales allow retail sales of medical and recreational at 2-4 Merchant Street with sign variance and 400-foot setback

Ms. Whelan suggested doing modification of Case No. 1535, 2005 Special Permit to limit that there can be no retail first and then move on to special permit for the marijuana facility.

Mr. Ruskin moved to close Case No. 1841 and modifying Case No. 1535. Mr. Brahmachari seconds the motion. Board voted to close case unanimously. (6-0-0)

Mr. Ruskin made a motion to modify Case No. 1535 regarding 2005 special permit to eliminate the no retail sales at 2-4 Merchant Street. Seconded by Brahmachari. Approved 3-0-0 (Ruskin, Brahmachari, and Barth).

Next, Mr. Ruskin made a motion that the Board accept the application Case No. 1841 as filed and relief as requested for the sign variance, 400-foot setback variance, and the Special Permit to permit the retail sale of medical and recreational marijuana at 2-4 Merchant Street for Case No. 1841. Seconded by Mr. Cohen. The Board voted 3-0-0 (Ruskin, Brahmachari, Barth). So Case No. 1841 is Approved.

Mr. Ruskin moved to close Case No. 1840 which modified Case No. 1830 which modified Case No. 1797 Mr. Brahmachari seconds. Board voted to close case unanimously. (6-0-0)

Mr. Ruskin moved to approve Case No. 1840 which modified Case No. 1830 which modified Case No. 1797 to eliminate retail sales of both recreational and medical marijuana from 1200 General Edwards Hwy.; that hours of operation restrictions be removed for 1200 General Edwards (previously 10 am to 8 pm and game day restrictions will be included and moved to 2-4 Merchant Street); to remove Special Conditions 1 and 2 because they are getting moved over to 2-4 Merchant Street; and to eliminate building sign at 1200 General Edwards Hwy. Mr. Brahmachari seconds. The Board voted 3-0-0 in favor of the plans (Ruskin, Brahmachari, Barth).

Minutes:

Mr. Ruskin moved to approve the minutes of March 13, 2019. Mr. Brahmachari seconded the motion. The Board voted 6-0-0 to approve the minutes.

It was moved, seconded, and voted to adjourn.

The meeting adjourned at 8:50 P.M.

Respectfully submitted