

## SHARON ZONING BOARD OF APPEALS MINUTES OF July 27, 2016

A regular meeting of the Sharon Zoning Board of Appeals was held on Wednesday, July 27, 2016 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, Joe Garber, Abe Brahmachari, and Barry Barth.

### **7:06 P.M. Jaimie L. Nystrom, Case No. 1789 Continued Hearing:**

Mr. Lee introduced the case and invited Mr. Shelmerdine, attorney for the applicant, to continue discussing the case.

Mr. Shelmerdine explained that the Board of Health is comfortable with the proposal based on the following two points:

- The expansion will stay within the footprint but will build up as zoning allows, therefore have the attic as a finished room but maintaining the home as a 3 bedroom home.
- The recording of this new Special Permit would be indexed accurately at the Registry of Deeds and the Deed will reflect a restriction of 3 bedrooms.

Mr. Lee inquired about any further requirements in connection to the septic system.

Mr. Shelmerdine shared with the board a Title V dated June 17, 2016, stating that the system passes conditionally but needs repair to the leaching field due to a break out. He explained that the repairs need to be made within 2 years but he suggested that a Certificate of Occupancy not be issued until the repairs are made.

Mr. Lee suggested that construction on the expansion will not begin until the repairs are made since waste water is leaking at the side of the leaching field.

Mr. Garber inquired about how an addition can be allowed to the upper level of a house when the lower level, in this case the breezeway, does not have a permit.

Mr. Lee explained that in theory the breezeway does not exist.

Mr. Shelmerdine explained that the garage has a Special Permit from 1998 to be a detached garage and that a Certificate of Occupancy was issued on a house that was in nonconformance.

Mr. Lee further explained that the first Special Permit was granted and it was violated, and now a second permit is being sought. With this second Special Permit the violation in terms of the bedrooms could be corrected. The reason the house was limited to 3 bedrooms is because there is a septic system and it's in a sensitive area near the lake.

Mr. Shelmerdine stated that the applicant is looking to comply with the 3 bedroom limitation and any environmental concerns. He stated that there is a 10 year Statute of Limitations from the time the building permit was issued in 1998.

Mr. Lee explained the house remains in violation as it's a 4 bedroom house but designed for a 3 bedroom house.

Mr. Shelmerdine agrees that the house is in violation.

Mr. Ruskin inquired about the breezeway and if there would be any changes to improve the situation.

The architect shared plans dated June 13, 2016, and a discussion ensued about the breezeway. It was said the foundation to the breezeway already existed and there would be no changes to it. The existing roof would be lifted to allow for headroom.

Mr. Barth inquired about the earlier Special Permit allowing a bathroom and there are no architectural plans to support this.

Mr. Shelmerdine summarized: the ZBA needs to determine if the proposal is not substantially more detrimental to the neighborhood than the existing nonconforming structure; the proposal is to go up 2.5 stories; there would be a shift from a 4 bedroom to a 3 bedroom; the septic would be repaired; place a restriction of 3 bedrooms. He further explained that the house was moved to the front in the past to better the environment and that building up is not impacting the environment.

Mr. Shelmerdine reiterated the following: other houses in the neighborhood have received Special Permits; they are trying to clean up by bringing the septic into compliance; the intensity of use will go down even though the town doesn't have the ability to take away the 4<sup>th</sup> bedroom. He also stated that the proposal is not unusual for the neighborhood and they are staying within the setbacks.

Mr. Brahamachari inquired about the height of the roof from the average grade. It was stated by the architect that the proposal is 7.5 feet higher and that the current is 33 feet 7 inches from the average grade. He also inquired about the concrete pad and it was stated that it already existed.

Mr. Ruskin brought up the concern of intensity of use in regards to the upstairs room and if it's a concern.

Mr. Lee responded that the bigger the house the more people will use it. He stated from a zoning perspective it's important to have houses in moderate size as opposed to going from small to bigger.

Mr. Brahmachari inquired about side elevation and the architect provided a section of the elevation for review.

Various neighbors that have been present at previous meetings expressed again support of the applicant's plans.

A discussion ensued between Mr. Lee and Mr. Shelmerdine about over use and over capacity, how an expansion is important to stay within the scope of a neighborhood, the reason for the applicant's request is the nonconforming lot in a water lay district, the applicant's lot is one of the larger ones in the area, and that under Section 6412(b) of the By Laws an expansion of this nature is permissible.

Mr. Lee inquired about the nature of the 2 rectangular areas on the plot plan dated June 17, 2016.

The architect explained the breezeway is currently narrow and has 3 feet of roof overhang. The depth will increase to meet the roof line but no new foundation will be added. The breezeway is a mudroom that when enclosed will open to the kitchen and dining area.

Mr. Lee expressed that the breezeway/mudroom expanding into a living area is an additional concern.

Another discussion ensued regarding a final letter from the Board of Health stating that the septic system passes conditionally and is not in failure.

Mr. Shelmerdine asked to close the hearing.

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

Mr. Brahmachari moved to approve the plans as per the Plot Plan dated June 17, 2016, and Architectural Plans 4.1 dated June 13, 2016, in addition to the special conditions listed below. Mr. Ruskin seconded the motion. The board voted in favor of the plans with special conditions listed below 3-0-0 (Lee, Ruskin, Brahmachari).

#### Special Conditions:

- Home is to be a three (3) bedroom house.
- Septic system must be in full compliance of Title V and Article 7 of Sharon Zoning By Laws before building permit is issued as per the Title V Report dated June 17, 2016.
- The third (3<sup>rd</sup>) floor space is to have no bedrooms.
- The decision will be registered at the Norfolk County Registry of Deeds.
- There will be no new foundation.

It was moved, seconded, and voted to adjourn. The meeting adjourned at 8:00 pm.

Respectfully submitted,

Approved September 14, 2016