

**SHARON ZONING BOARD OF APPEALS
MINUTES OF WEDNESDAY, FEBRUARY 10, 2021**

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 in 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, February 10, 2021, at 7:00 P.M. The following members were present as established by roll call: Abe Brahmachari, Steve Weiss, David Young. Joe Garber and Sam Reef were not present. Mr. Brahmachari reading Covid19 protocols per the Governor of MA and procedural ground rules.

**7:06 PM – Martin and Deborah Yarmush and Rubin Yarmush, 63 Cottage Street, 1871--
Continued Hearing from January 13, 2021**

Present for the applicant: Deborah Yarmush, and her son, Rubin Yarmush, applicants; David Sharff Architect, P.C., Medfield MA.

Documents submitted included: application filed on December 3, 2020, Subsurface Sewage Disposal System Design by Outback Engineering Inc., Middleborough MA dated May 27, 2020; architectural plans by David Sharff Architect, P.C. dated October 30, 2020; also, updated documents submitted electronically included: mortgage inspection plan, Boston Survey, Inc., Chalestown, MA dated October 28, 2016; Subsurface Sewage Disposal System Design by Outback Engineering Inc., Middleborough MA dated May 27, 2020; Exiting Condition Plans at 63 Cottage by Outback Engineering undated.

New documents submitted included architectural plans by David Sharff, Architect, P.C. dated January 28, 2021; a letter from James Grasfield, Chairman, Sharon Historical Commission dated February 9, 2020.

Applicant's architect, David Sharff, updated drawings to satisfy SHC and resolve ZBA question about limiting access from a rear deck by eliminating stairs; also updated plot plan shows grading to address concerns about runoff from the property; regarding meditation garden, the applicant is proposing fencing and screening so there is no visible connection from drive area of their house to meditation garden.

Applicant is seeking two special permits: 1) dwelling unit and 2) four-car garage. Second unit is for family, but is there anything in bylaws for concern of this becoming a two-family home? Per Zoning bylaws chair stated in-law units are to be occupied by family only. Question, what if 25 or 40 years from now it becomes a two-family? If that happens it would be a violation of what ZBA approved per Chair.

Mr. White, building inspector, said if the two units are not connected on the interior you will need two egresses. If they are connected within the interior, you don't need the second egress in Unit 2. Mr. Sharff said Unit 2 can go into Unit 1 and there is also access to the deck through a door. When there are conflicting bylaws, the stricter is the building code. One option is to remove doors and have framed opening. Other option is to keep the stairs to deck in rear.

Both Deborah and Ruby Yarmush stated they prefer the stairs stay rather than requiring them to walk through the other unit entirely. Mr. Sharff said they are sliding patio doors, can be locked from inside, but not a situation that is easy to use as a back door. Mr. Sharff thinks it meets the spirit of the bylaw.

Discussion that decision needs to be as written that both units are to be occupied by relatives because it is not a two family home in order for Board to be in favor of stairs off the back porch.

No abutters present.

Applicants Ruby and Deborah Yarmush requested to close the case.

Mr. Brahmachari motioned to close 63 Cottage Street, Case 1871. Seconded by Mr. Weiss. Unanimous roll call: 3-0-0 (Brahmachari, Weiss, Young).

Mr. Brahmachari motioned to approve 63 Cottage Street, Case 1871 with standard conditions and two special conditions 1) deck stairs shown on original drawings labeled architectural plans by David Sharff Architect, P.C., Medfield, MA dated October 30, 2020 be included in project and 2) with a condition that only Yarmush relatives may occupy the home as it is an in-law apartment and not to be used as a two family as shown on plot plan by Boston Survey, Inc., Charlestown, MA dated October 28, 2016, and updated architectural plans by David Sharff, Architect, P.C., Medfield, MA dated January 28, 2021 MA. Mr. Weiss seconded. Roll call vote approved unanimously, 3-0-0 (Brahmachari, Weiss, Young).

8:33 PM – Memorandum of Decision 19 MISC 000530 (JSDR) dated December 23, 2020 regarding 40 Harold St., Case 1844 – Other Business

Chair acknowledged receipt of the Court's Decision and Judgment.

Chair made a motion to approve Mr. Denny's application "as submitted to the ZBA" in accordance with the Judgment -- Memorandum of Decision 19MISC 000530 (JSDR) dated December 23, 2020 regarding 40 Harold Street, Case 1844. Seconded by Mr. Weiss. Unanimously approved 3-0-0 (Brahmachari, Weiss, Young)

8:35 PM – Christopher Piazza, 126 Morse Street, 1872 – New Hearing

Present for the applicant: Eric Dias, Strongpoint Engineering Solutions, Inc., West Bridgewater, MA

Documents submitted included: application submitted on January 7, 2021, and a Variance Request Plan by Strongpoint Engineering Solutions, Inc., West Bridgewater, MA dated January 5, 2021.

Chair read the legal notice as it appeared in the Times Advocate on January 20, 2021, and January 27, 2021; a letter from Kevin Davis, Board of Health agent dated January 25, 2021; a letter from John Thomas, Conservation Commissioner, dated January 25, 2020.

Mr. Dias, representing the applicant, sought a variance to allow for two homes on the lot that are accessed by a common driveway. The approximately eight-acre property backs up to Borderland State Park and has a substantial wetland cover on it. Section 2413 B suggests you cannot have a common driveway. In this case the access to lot two would be through the frontage of lot one. Hardship is based on hydrology because of the wetland coverage.

Board discussed hardship as obvious based on hydrology.

No abutters present.

Mr. Dias requested to close the case.

Mr. Brahmachari motioned to close hearing for 126 Morse Street, Case 1872. Mr. Weiss seconded. Board voted unanimously to close hearing, 3-0-0 (Brahmachari, Weiss, Young)

Mr. Brahmachari motioned to approve Case 1872, 126 Morse Street as shown on Variance Request Plan by Strongpoint Engineering Solutions, Inc., West Bridgewater, MA dated January 5, 2021. Mr. Weiss seconded. Roll call vote approved unanimously, 3-0-0 (Brahmachari, Weiss, Young).

7:52 PM – Request for Informal Prelim Feedback on 6 Duplex Concept Plan—303 North Main Street -- Other Business

Mr. Mike Khoury, Maddolf and Khoury, Foxboro, MA sought preliminary, informal and non-binding views and approached the board with a letter dated February 4, 2021 presenting a proposed six duplex (3 bldgs.) concept plan for a redevelopment of 303 North Main Street. Currently site is used by an automotive repair shop as a pre-existing non-conforming use

They are considering whether to purchase the property and demolish the station. They need to put in three residential duplex buildings, each with their own master deed, to make it feasible. This puts the first building within 40 feet of North Main Street. The rear section of 8.25-acre lot is all wetlands. Automotive shop is pretty run down. The owner and operator is open to an offer for development.

Plan would have a single 20-foot wide driveway with a turn-around area just after the second proposed building. The construction configuration would be outside the wetlands but they need certain variances from local bylaws for the septic. The service station and second floor residential apartment would need a use variance and he is not sure if the board can grant this under the state guidelines. Or perhaps take an existing nonconforming use (auto repair shop) and convert it to a different nonconforming use. It would take an eye sore and replace it with a much better fit for the neighborhood.

Mr. Khoury asked what is board's sense before they spend substantial money in soft costs? If they don't get some relief of additional residential units on this property it will ensure the property will remain an automotive site. He thinks it would serve the town to turn it over to a residential development.

Chair said they cannot make any comment without an application being filed.

Mr. Khoury would be seeking relief of required 100-foot to 40-foot setback. Other relief needed is from 125-foot septic system setback because they are locating it to work around location of wetlands. Only 40 feet from street because they need room for the shared driveway as well as sufficient area to locate the septic systems outside of the wetlands setback. Chair noted they cannot take a vote.

Lot has 90 feet of frontage. If it was a single family home, they would need 100 feet of frontage. Board members asked about density of project, traffic on North Main Street and the curve in the road at that point, and why new building is slightly closer to the street than the existing station.

Mr. Khoury was puzzling with how to change the use or get relief on General Residence A requirements. He thinks he can make a successful argument under the state standard that because of the configuration of the lot, the passage of time has rendered the automotive shop an anomaly in the neighborhood. They can establish the standards, but if the board can't by their own bylaw approve it, then they have to do it some

other way. Mr. Khoury said rezoning the area or the lot has been considered. They would have to modify the bylaw, go to town meeting, pass review by select, planning, and ZBA for that route.

Building Inspector said from a zoning standpoint it's a use variance which are typically very hard to overcome the uses. Towns don't give out use variances unless it is expressly written within the bylaws. The use as a two-family with multiple structures on it is not allowed in the single-family neighborhood. The other option is a zoning change and that is difficult to overcome because it would be considered a "spot zone" in a residential area. Mr. White also mentioned single residences with a common driveway as most viable option in his opinion, but they will need variances for construction within the hundred-foot buffer within the wetlands and they would need substantial relief with conservation as well.

What is the hardship here? Per Mr. Kouhry, the only viable option on this particular lot given its configuration and wetlands in the back is as an automotive shop in a residential district. It is unlikely anyone would buy this lot if he/she weren't allowed to put several residences on there. This is a way to make this lot use fit the neighborhood most closely, because one or maybe two residences will fit on this.

Town is straining for more commercial and not more residential, which make it harder to rezone.

Jim Grasfield, Chair of SHC, called in regarding 63 Cottage Street, Case 1871. But, everything is in order and the board took a vote. Mr. Brahmachari thanked Mr. Grasfield for the SHC letter.

8:24 PM Minutes from January 13, 2021

Chair moved to approve the minutes for January 13, 2021. Seconded by Mr. Weiss. Unanimous roll call: 3-0-0 (Brahmachari, Weiss, Young).

It was moved, seconded, and voted to adjourn.

The meeting adjourned at 8:25 PM.

Respectfully submitted.