

## Town of Sharon Planning Board

Minutes of 12/16/21

Meeting held via ZOOM

### Planning Board Members

David Blaszkowsky, Chair	Pasqualino Pannone Secretary
Rob Maidman, Vice Chair	Peter O'Cain, Town Engineer
Kai Yu	
Shannon McLaughlin	

### Other Attendees:

Maria De La Fuente, ~~Liz Ellis~~

### Meeting Initiation

David Blaszkowsky called the meeting to order at 7:02 PM. Topics to be discussed:

- *Signs –1. Red Lentil Restaurant, 2. Jack Conway, ANR 74 East Foxboro Street, Governance Committee, Codification and role of Planning Board*

### Meeting Minutes

Mr. Maidman moved to approve the 12/1 minutes as submitted. Ms. McLaughlin seconded the motion. The Board voted 3-0-2 in favor of approval.

### Sign Red Lentil Restaurant

Mr. O'Cain displayed the new colors chosen for the sign by the applicant. Mr. O'Cain in the previous meeting was authorized to act as Agent of the Board to authorize the changes to the sign.

### Sign Jack Conway

Mr. O'Cain commented that they chose a Benjamin Moore historical color for the background. The sign conforms to all dimensional requirements. A brief conversation ensued. Ms. McLaughlin moved to approve the Jack Conway Sign as presented. Mr. Yu seconded the motion. The Board voted 5-0-0 in favor of approval.

### ANR 74 East Foxboro Street

Mr. O'Cain said as part of the Civil Defense construction proposal to have on this piece of land a piece needs to be unrestricted. A land swap needs to occur. The Town made a legal agreement with the Temple Adath Shalom on Harding Street. This issue has been to land court and it meets their requirements. The ANR divides the large parcel. The Temple keeps its building and

shed. The Town is giving a small piece to the Temple and the Temple is giving land for the Civil Defense Building. The land is going to the National Park Service as restricted parcel.

Ms. McLaughlin moved to allow Peter O’Cain to act as Agent of the Board to sign the plan waiving particular requirements for plan notations. Mr. Pannone seconded the motion. The Board voted 5-0-0 in favor of approval.

### **Governance Committee**

Chair Blaszkowsky sent out a few thoughts to the Board in response to questions supplied by Ms. Arguimbau representative of the Governance Committee to the Planning Board. Mr. Maidman will draft language to represent the Board and then it will be passed around for review. This item will appear on the next PB agenda for continued discussion.

Thoughts shared amongst the Board included Mr. Blaszkowsky who said the PB is elected. We should have more responsibility. Why isn’t the ZBA elected? If the PB takes on more responsibility how can we attract more talent. The election is not competitive.

Mr. Yu said with the library as an example would the library project have been better being pushed through the Planning Board as an elected body as opposed to the appointed ZBA.

Ms. McLaughlin stated that regarding justifying an increased role for the PB look at the law as to what a Planning Board is supposed to do. It is odd we do not follow charges listed in the Mass General Law. It’s odd we are an outlier as what we do. In Foxboro, the PB was a major stakeholder in the library process. From her perspective, Ms. McLaughlin said look at what the PB is empowered to do. Why deviate from powers granted by Mass Legislature?

Mr. Maidman said site plan review prevents things from happening and could provide guidance for larger projects.

Mr. Yu said if we have a more traditional or broader role in general, how would that be more beneficial to the Town.

Ms. McLaughlin said shorter terms should be considered.

Mr. Pannone said if the PB got the responsibility they should have then the 5-year term makes sense.

Mr. Maidman said we have to think of the needed functionality to integrate into whatever emerges. We do not want to create dysfunctionality. Mr. Maidman said we need to put together a statement of what we should be doing.

### **Codification and Role of Planning Board**

Ms. De La Fuente reviewed the minutes of the 12/7 Zoning Recodification Meeting:

*Upon a Board member’s question, Mr. Bobrowski clarified that the zoning table would list the main districts only. At the bottom of the table, there would be a section that mentions that main zoning districts are subject to overlay districts’ additional requirements. The overlay districts would then be listed.*

For page A-1, item 4: 'Multifamily or mixed-use buildings', DHCD has released a 'Preliminary Guidance for MBTA Communities' in response to changes in the Zoning Enabling statute (chapter 40A) enacted as part of the Economic Development Bond Bill. As an MBTA community, Sharon is encouraged to comply with the new policies to foster the creation of multi-family housing within 0.5 miles of the commuter rail station. DHCD will release further guidance on these policies, but as of now, they require the following:

multi-family housing allowed as of right within half a mile from the train or commuter rail station, a minimum of 15 units per acre on the said residential zone (subject to Title V restrictions, the minimum amount of housing units per acre can be reduced), housing appropriate for families with children, and no age restrictions on these housing units.

As of now, the Town of Sharon has a Mixed-Use Overlay District (MUOD) in its downtown area which complies with everything said in this statute except for allowing multi-family housing by right. Multi-family units are currently allowed by special permit only. After releasing its full guidance document sometime in December, MBTA communities will be given a certain amount of time to bring their zoning up to compliance if it isn't already. If an MBTA community does not comply, it will be ineligible to receive a variety of grant funding, including MassWorks, one of the biggest sources of funding for infrastructure projects for municipalities. We will keep an eye on further guidance from the DHCD and suggest changes as appropriate.

Page A-1, item 7: 'Lodging or boarding house'. Mr. Bobrowski advised us to reconsider whether we still want to allow this use as a principal use, as lodging or boarding houses have fallen out of use. A boarding situation usually means 5+ people staying in a given place. This, however, doesn't mean that someone in a single-family home cannot rent out rooms in their home, as long as the owner lives on-premises. That will be addressed later on the zoning table. Instead, lodging or boarding houses should be allowed as an accessory use (as there are no longer places in which lodging or boarding is their principal use). Additionally, we should clarify that we would be allowing for-profit boarding or lodging as an accessory use (as opposed to a non-profit such as a church boarding people, for example).

Page A-1, item 8: 'Flexible development'. Currently, flexible developments have to be approved by both the ZBA and the PB. As flexible developments are, in essence, subdivisions, the Planning Board should have control over them. Mr. Bobrowski pointed out, however, that if you comply with subdivision control law, then you should not need approval from a separate board such as the ZBA. Therefore, we should revise our flexible development procedures.

Page A-1, last four items. Mr. Bobrowski addressed the following terms: assisted living facility, long-term care facility, congregate care facility, and senior housing facility. Mr. Bobrowski explained that 'senior housing facility' is an umbrella term for all other kinds of elder care facilities. Senior housing is a very profitable land use to municipalities, and it is in high demand due to our aging population. Mr. Bobrowski recommends grouping all elder care facilities into 'senior housing facility', as the land-use impact is the same for assisted living, long-term care, and congregate housing. By grouping them together under this umbrella category we can simplify our zoning and open the doors to future, high-revenue generating varieties of elder housing.

Additionally, if we choose to keep elder care facilities separate and permit different types of facilities in different districts (which again, Mr. Bobrowski doesn't recommend because they have the same impact on land use), these are the differences required in definitions:

Senior independent living. Every individual has their own bedroom with a kitchen that they may or may not choose to use, and there is a communal dining room on-premises, as well as a common living space. Residents in this type of senior housing are highly independent, and they get the added social benefit of living in a community of peers.

Assisted-living is the next level of elder care facilities. Assisted-living is for individuals who need help with bathing, eating, and other everyday tasks.

A long-term care facility is the highest level of senior housing. On these types of facilities, residents can expect to ring a bell and receive immediate assistance. This is for individuals who need much more intensive care, and as such, the level and speed of service are higher.

Congregate housing is an elder care facility that includes all three levels of senior care under one roof: there are independent units with communal spaces for independent seniors, there's assisted living for those who need extra help on their day to day, and long-term care for those who need high levels of assistance.

Tiny homes were brought up for residential uses. Most tiny homes are on wheels, but if they were put on a permanent foundation, we would need to determine whether we would like to allow multiple tiny homes on one lot. Tiny homes are an increasingly common land use, and our zoning should be prepared to deal with applicants who ask whether they can or cannot put a tiny home on a lot. More deliberation between members is required before we move forward with this item. It is worth noting that tiny homes on foundations are allowed under state law (Bill S.2530).

For page A-2, items 1, 2, and 3, Dover Amendment applies: religious uses, public educational uses, and all kinds of child care have to be allowed by-right. We cannot prohibit these uses, but we can regulate them.

Page A-2, item 4: 'Municipal building, park, water tower or reservoir', and item 5: 'Other municipal uses'. Whether we want to allow municipal uses by-right in every district is up to us. As of now, we separate them into the aforementioned categories. One of the suggestions was that everything but a water tower and a DPW yard should be allowed by right everywhere. However, Mr. Hooper pointed out that DPW uses are necessary to provide essential services, but people might be opposed to having them in their neighborhoods because of aesthetic reasons. The need to provide essential services should supersede any aesthetic objections and as such, all municipal uses should be allowed by right. An example was given: no one wants a salt storage shed near their home, but everyone wants safe roads during the winter. This needs to be reconciled by allowing all municipal uses to be as of right. Additionally, we would need to add on the dimensional table the fact that municipal uses should be exempt from height, lot coverage, and setback regulations. While municipalities are allowed to do this, we need to explicitly state our right to do so in the zoning bylaws (write in the exemptions). Otherwise, we would be subject to regular dimensional regulations which would make some uses impossible (say, a multiple floor fire station on a residential district should be exempt from zoning and dimensional requirements in order to provide public safety services).

Page A-2, item 6: 'Essential services'. This includes water tanks, telephone stations, or any utilities that are regulated by DPU/DPE. Examples of regulated facilities include quasi-monopolies such as high voltage lines, switching stations, etc.

## Ms. De La Fuente reviewed the minutes of the 12/14 Zoning Recodification Meeting:

Page A-3, item 1: 'Public indoor/outdoor recreational facilities'. It is up to us to decide what activities constitute these uses. Mr. Bobrowski advised us to separate outdoor recreation from indoor recreation, as they involve very different activities and we might want to permit them in different areas. Examples of outdoor recreation include golf courses and skating rinks. Examples of indoor recreational facilities include gyms. Other activities such as bowling and movie theaters will be addressed further in the zoning chart.

Page A-3, item 2: 'Exempt agriculture'. Exempt agriculture's definition will be added to our zoning bylaws. In summary, an exempt agricultural use is one which has over 2 acres of land, or makes \$1,000+ in growth proceeds per year. This category includes agriculture, flower gardens, and livestock (but no fur bearing animals). If 2+ acres are too much to allow in some districts, we could consider allowing market gardens or commercial greenhouses.

Page A-4, item 4: 'Public stable'. Any stable that is 5+ acres is a protected agricultural use, even if the stable is just boarding horses (Steege v. Board of Appeals of Stowe). Breeding dogs in lots of over 5 acres is also a protected agricultural use (Town of Sturbridge v. McDowell). However, boarding dogs is not a protected agricultural use, as that is considered a kennel, and those are regulated differently.

Page A-4, items 6 and 7: 'Hotel' and 'Motel'. Currently, we do not make a distinction between the two--- hotels are allowed in General Residence and Light Industrial, and motels are only allowed on Light Industrial. The difference between a hotel and a motel is the way you access the rooms. In hotels, rooms are accessed through indoor corridors, and in motels, the rooms are accessed through the parking lot. Motels are currently only mentioned once in our bylaws, almost incidentally. Which do we want to allow, and where?

Page A-4, item 9 'Theater; Multiscreen movie complex; other place of indoor or outdoor amusement'. Mr. Bobrowski again recommended we separate indoor amusement from outdoor amusement, as they can result in very different buildings being permitted. We should also separate for-profit vs non-profit uses under this item as well. Mr. Bobrowski also recommended we change this item's name to 'place of public assembly' as an umbrella term if we'd like to still group outdoor and indoor uses together.

Page A-5, item 1: 'Retail Sales'. Retail needs to be broken into several categories. The term 'retail' is broad enough to encompass both a small kitchen cabinet store and a Walmart, which is why we should be more specific about what we want to allow, and where. Mr. Bobrowski advised us to think of two or three different categories of retail, such as 'large scale retail' or 'neighborhood retail'. He mentioned Medford's guidelines are a good starting point.

Additionally, the retail sale of firearms should be explicitly addressed. We don't have to permit it in town, if we don't want to, but that would likely be a controversial choice. A good compromise could be to allow it only in the Light Industrial district.

Page A-5, item 4: 'Personal service establishment'. We should add a 'general service establishment' category under item 4. This new category would include computer repair, shoe repair, upholstery repair, with the exception of automobile repair shops.

Page A-5, item 6: 'Body art establishment'. Body art is considered a form of self-expression under the 1st amendment, being both a form of expression by the artists and the bearer. As such, we cannot prohibit it under zoning, but we can regulate them through its secondary effects. The law requires us to provide reasonable opportunity for expression—not to necessarily allow body art establishments in every district by special permit, but perhaps they could be allowed where adult uses are. Many other downtowns also allow body art establishments.

Page A-5, item 10: 'Artist studio or gallery'. We should break up this category into at least two. The first category should be artist studio being a principal use, and we could allow the sale of paintings on-premises as an accessory use. The second category would be an art gallery. Additionally, we could also allow art auctions as a third category.

Page A-6, item 3: 'Fast food restaurant'. Fast food is usually defined as food that requires little cooking, is served with plastic utensils, prepackaged to be taken off-premises, and usually has more than one franchise. Fast food has its own litter problems and traffic issues, so if we want to permit it in Town, it should be its own category. For reference, 72% of all Dunkin Donuts orders are drive-through orders.

Page A-7, item 2: 'Motor vehicle repair establishment'. Do we want to allow for car repairs only, or should we also allow body shops? The difference is that body shops paint cars, and as such might need further regulations to make sure it is not impacting the environment around it.

Page A-7, item 4: 'Outdoor storage or overnight parking of vehicles exceeding 10,000 GVW'. Assuming we mean the parking of commercial vehicles only, Mr. Bobrowski recommends we up the limit to 15,000 GVW (gross vehicle weight), as cars nowadays are heavier and we don't want to ban commonly-used but heavier cars from being parked at people's driveways. For example, Ford F-350, Chevy Silverado 3500, and GMC Sierra 3500 vehicles all weight between 10,000 GVW and 14,000 GVW. By upping out limit to GVW 15,000, we would be ruling out light and medium pick-up trucks, and just ensure that the heavier duty vehicles are subject to this regulation. Or perhaps item 4 means the parking of RVs, which should be treated as an accessory use, such as allowing RVs to be parked on residential lots as long as they are screened from view.

Page A-7, last item: 'Drive-through services'. All drive-through services should be by special permit only, as opposed to by-right as we currently have them, because of the traffic impact they have. The Town should be able to regulate them to make sure they are operating in the most optimal way possible.

Page A-8, item 3: 'Storage building for goods to be repaired or sold at retail directly to the consumer or temporarily stored for the consumer'. Mr. Bobrowski was confused by this language and asked if we have ever used this clause, or if we knew what it meant. We could consider deleting this item?

As for miscellaneous uses, Mr. Bobrowski said he would send us a list of communities whose demographics match ours, such as Andover and Easton, so we can browse through their use table and to add any other uses we would like to include that we currently do not have.

Mr. White asked a question regarding us having a parking table. He mentioned that other towns have parking codes along with their use table, and based on that parking code there is a parking table that elaborates the requirements for that type of use (such as, x amount of parking per every x amount of gross feet area, etc.). Mr. Bobrowski said we will have a parking table for the user's convenience.

Page A-8, item 8: 'Earth removal (see Chapter 141)'. The suggestion was given that we should maybe regulate earth removal only after a certain threshold has been exceeded (say, you only need a special permit if you're going to remove over 1,000 cubic yards of soil, which is approximately 40 truckloads of soil. Or perhaps it could be triggered as a percentage of grade change or feet. Such as 1-2 feet of elevation change is fine, but anything more than that would need a special permit. Mr. Bobrowski said he would send us a sample Earth Removal bylaw for us to browse and decide how we would like to approach this.

Page A-8, item 9: 'Solar energy system'. It was suggested that we differentiate between different levels of solar projects, such as 'small scale residential', 'solar mounted residential', or 'solar mounted commercial'. We could also approach it as ground vs mounted, and residential vs commercial. Mr. Bobrowski will send us a sample definition of a solar bylaw for further discussion.

Page A-8, items 11 and 12, 'Major nonresidential development' and 'Major parking facility', Mr. Bobrowski will add definitions for these items.

Page A-10, item 1: 'Home occupation as-of-right or by special permit [accessory use]'. Mr. Bobrowski said we should separate home occupation between as-of-right and by special permit, the difference being that as-of-right uses have no students or employees originating their trips from these locations, and by special permit you can have up to two employees on premises. This would be a way for us to control neighborhood impacts.

*Page A-10, item 3: 'Accessory child care center or school aged child care program [accessory use]'. Dover Amendment applies here.*

*Page A-10, item 4 and 5: 'Family daycare home' and 'Family daycare, large' [accessory uses]. Family daycare has 6 or fewer kids, and large family daycares have 10 or less kids. Anything over 10 kids is considered a child care center. These numbers include resident participants.*

*Page A-10, item 6: 'Adult day care home'. We should treat this just as we treat child care.*

*Page A-10, second item 6: 'Renting of one or two rooms without separate cooking facilities to lodgers within a dwelling unit to one or two total lodgers'. Lodgers should be allowed as of right on residential districts. As for state laws, Airbnb's/short term rentals are required to be registered and licensed as such. If we want, we could choose to levy a local tax on Airbnb's or short-term rentals to discourage the use or to better regulate it, as the Cape Cod region does.*

Ms. De La Fuente said there is a placeholder for Town Meeting to inform public on zoning changes. The PB needs to discuss in January if we are ready for a Spring Town Meeting with this item.

Mr. Blaszkowsky thanked Maria for her review and said policy decisions need to be made. We need to fill in the gap of what we should do. We need to determine how to bring it all together.

Mr. O'Cain said maybe we have Mr. Bobrowski write the language as a foundation and then the Board can comment on what exists.

Ms. McLaughlin asked if we are rushing the process. Do we have more deliberate thoughts.

Mr. Blaszkowsky said we will review a unified document in February. We need to consider if we want to discuss policy issues. It may be in the Fall.

Ms. De la Fuente stated that Mr. Turkington said this needs to occur in May.

Mr. Blaszkowsky said we need a timeline for Boards and Town Counsel. Everyone needs to look at it. We need a vision of how it comes together.

January 6<sup>th</sup>, 2022 is a codification specific meeting.

Mr. Maidman said we need to understand which Boards we circulate to and how do we ask them to prepare comments. Perhaps we ask each Board to appoint a liaison who will respond for the particular Board.

### **Other items**

Review of Post Office Square Design Guidelines

Zoning Bylaw 4391

There is no definitive plan for the Cape Club yet. All units in Phase 1 are built but not complete.

North Main Street property is a LIP. It will be filed as a comprehensive permit from the ZBA.

The Maskwonicut Bridge should be completed August 2024. Construction will occur around train schedules.

### **Future Scheduled Meetings**

1/13, 1/27, 2/10

Scenic Roads Public Hearing for 126 Morse Street – originated on 11/11/21. The hearing will remain open and be continued.

### **Adjournment**

Mr. Maidman moved to adjourn the meeting and Ms. McLaughlin seconded the motion. The Board voted 5-0-0 to adjourn at 9:10 PM.