

## **Town of Sharon Planning Board**

**Minutes of 1/6/22**

**Meeting held via ZOOM**

### **Planning Board Members**

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

### **Other Attendees:**

Maria De La Fuente, Elizabeth Ellis, Bob Shelmerdine

### **Meeting Initiation**

David Blaszkowsky called the meeting to order at 7:00 PM. Topics to be discussed:

- *Governance Committee, Codification and Role of Planning Board*

### **Meeting Minutes**

Mr. Maidman moved to approve the 12/16 minutes as submitted. Ms. McLaughlin seconded the motion. The Board voted 4-0-0 in favor of approval.

### **Governance Committee**

As a continuation from the previous meeting, Mr. Maidman put together an initial draft to capture the essence of what the Board had discussed. This draft includes the input that occurred at the meeting and awaits final approval before being sent to the Governance Committee.

The Governance Study Committee is reaching out for input from Town officials to help us better understand what is working well, what impediments you face in performing your duties, what could use improvement, and your ideas about making town governance more responsive to Sharon's residents now and in the future.

Our charge touches on the legislative and executive structures and functions of town government. Thinking about your role and responsibilities:

1. What if anything would you recommend changing? Why?

Massachusetts General Laws (Chapters 40A, 40A %5, and 40A %9) define Planning Board (PB) duties to include all matters pertaining to zoning regulation application, amendments, public hearings and granting authority for site plan reviews and special permits. Currently, the last two responsibilities are overseen by the Sharon Zoning Board of Appeal (ZBA). 40A %16 verifies the PB as a party of interest in any deliberations concerning zoning compliance or exception.

Apart from routine matters such as authorization not required permitting, tree removal on scenic roads, sign authorization within the historic district and more complex issues such as sub-division development, the Planning Board does not participate in critical development decisions, most noticeably the library initiative and the Sharon Gallery. In the present construct, the ZBA is charged with project review when proponents seek variances from existing regulations and although the ZBA takes these regulations into account, its vision scope is focused exclusively on the project under consideration and not the larger -scale impacts on the Town,

both present and future. As a result, the Planning Board is not consulted on major issues nor is asked to engage in deliberations and decisions.

Sharon is a regional anomaly in terms of PB and ZBA mission delineation. In neighboring towns, Site Plan Review and Special Permit Granting are Planning Board responsibilities and we advocate that for Sharon. Also, PB members are elected by the Town's residents while ZBA members are appointed by the Select Board.

Lastly, the PB considers long-term implications of actions, as evidenced in its sponsorship and continuing implementation of the Sharon Master Plan. Project proponents seek regulatory relief from the ZBA on specific issues, not always consistent with the Town's long-term objectives.

1. What do you see as pros and cons of changing to a Representative Town Meeting, Town Council or other form of governing body? 2. What do you see as pros and cons of retaining the present Open Town meeting form of governance?

Open Town Meeting is a cherished institution that has historically served Sharon well. In recent years however, the Planning Board has observed decreasing attendance and an increasing incidence of single-issue voting. Given the absence of a town newspaper, there is no readily available information source other than the Warrant. Citizen questions and comments occur but there is no effective mechanism allowing follow-up questions. The Town Moderator has the singular decision authority regarding question legitimacy, legal order, and maintaining civility. Please consider the following:

#### Pros

- Direct engagement, citizens speaking to issues of individual importance
- Expansion of information from FinCom warrant item summaries
- Initiative proponent presentations to an engaged audience
- Ability to obtain clarifications from Select Board and Town Counsel

#### Cons

- Serious challenges for young families, especially at late-night and second day meetings
- Sharon seniors cannot always remain to meeting conclusions and cannot vote
- Week-night meetings likely to conflict with family obligations, reducing attendance
- Calling the question eliminates deeper review of an issue, under current rules

Present Town Meeting structure does not consistently allow decisions based on the most thorough, unbiased information. Long-term financial and land-use impact commitments can be made with decreasing proportional participation. Consideration should be given to a representative Town Meeting, or a hybrid model.

3. Could you identify significant obstacles to voter engagement or thorough deliberation of matters that come to your board/Committee?

The PB mission is well-known to individual issue proponents and has a consistent but small Sharon Cable TV audience. However, to the town at large, its visibility and responsibilities are minimal. Public hearing notifications are legally required and are attended by interested parties, generally abutters. The absence of a Town newspaper has removed the traditional means of publicity and is likely the single-most important explanation for the lack of engagement.

4. What are your thoughts about recruiting and retention of citizens to your board in years to come? What specific knowledge, skills, or abilities should members of your board have, and how might we best assure that future board members have those attributes?

Elected offices such as the Select Board, School Committee, and Library Committee as well as appointed committees carry 3-year terms but the PB is an exception at 5 years. While the PB addresses both short and long-term decision issues, the required tenure commitment can be a participation disincentive. This might explain why recent PB elections have unopposed incumbent candidates. The absence of new participants promotes status-quo thinking, not necessarily to the Town's best interests.

Additionally, the PB and ZBA responsibility delineations addressed in Question 1 remove opportunities to help define the Town's future growth trajectory. When and to the extent the PB mission changes may improve the recruitment challenge.

There are no special qualification or competency pre-requisites. PB members continuously learn from each other. As with any Town committee, a contributive member who cannot commit to term length and regular attendance diminishes PB's overall impact.

5. Knowing what you do about the responsibilities and operations of the Select Board, what do you see as advantages and disadvantages of enlarging the Board?

The current number of 3 SB members is appropriate for the current tasks but the limited number reduces opportunities for improving representative diversity. While there is no guarantee that enlarging the SB would attract new candidates reflecting the Town's evolving ethnic and religious composition, the 3-member board promotes status-quo. Similar to the PB experience, this is not necessarily in the Town's best long-term interest.

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

Ms. De La Fuente reviewed the minutes of the 1/4/22 Zoning Recodification Meeting and the Board discussed and provided their thoughts and opinions.:

On Tuesday, January 4th, 2022, key staff members met with Consultant Land Use Lawyer Mark Bobrowski regarding his second memo on the recodification of the Zoning Bylaws. Staff members that attended the meeting include DPW Superintendent Eric Hooper, Town Engineer Peter O'Cain, Inspector of Buildings Kristian White, and Planning/Engineering Specialist Maria De La Fuente. Board representatives included Planning Board Chair David Blaszkowsky, Planning Board member Robert Maidman, and Zoning Board Chair Joseph Garber.

The meeting discussed bylaws on residential and nonresidential uses.

Mr. Bobrowski said the following, regarding the documents he had sent us to review:

Home Occupation (home businesses): Small scale operations should be allowed as of right/ Special permit operations, such as those that employ more than two people on the premises or involve pupils or students, will be allowed by ZBA approval only. All home businesses have to be the secondary use of a home, and must not produce excessive noise or light, or any outward features that might vary from the appearance of a single-family home.

Something we need to take into consideration is home landscaping businesses. Do we want to allow them under home occupation, or as the main use in business districts only? Mr. Bobrowski cautioned that many municipalities have seen a decrease in landscaping businesses by not allowing them to operate out of their homes, placing a barrier to entry that indicates that, if you want to run your business in certain towns, you need to be able to afford and set up a separate business in a commercial area.

Accessory Dwelling Units: This ADU bylaw is modeled after the governor's legislation released a year ago. This bylaw provides much more guidance to those applying for an ADU, such as requiring a plot plan, stating the unit's maximum square footage, and ensuring that its appearance is consistent with the main dwelling's.

Some points for consideration are whether we should allow for detached (carriage house) vs attached units (such as most garages), whether they should be allowed by right or by special permit, and whether they should be limited to blood relatives only. It is worth noting that it is impossible to enforce whether someone is a blood relative of the owner.

Staff recommendations include allowing ADUs by special permit only and not by right, and to only allow attached units. Additionally, utilities must be shared between the two dwellings (no separate water meters, for example). Basement ADUs should be strictly prohibited.

Senior Housing Facility: Senior housing uses are very flexible—they can be put in 2 acres lot, 10 acres, etc. They're also very profitable uses, usually bringing in about 70 cents in revenue for every dollar spent. We can also write the zoning in such a way that Sharon residents get preference.

We can approach the Senior Housing Facility District as an overlay over a big area, such as Rural 2, which has the biggest lots in town (over 80,000 SF). All senior facilities will be approved on special permits only. This way, if there is

a decent parcel for sale (such as a 3-acre parcel) a small senior housing facility could be permitted there, increasing revenue for the town and living options for the elderly.

The only concern attendees had was that, if we group all categories of senior housing (assisted living, congregate care, etc.) under an umbrella term, we might have to think of how that would affect our affordable housing inventory. DHCD considers group homes as affordable homes, but not assisted living facilities. So if we build another 100-unit assisted living facility, we might need to build a lot more apartments or 40B developments to make up for that increase in housing units.

As of now, our Senior Overlay District cannot be used for the purpose it was created. The land in that overlay district has actually been put under a conservation restriction. As such, we must eliminate this overlay district.

Flexible development: This alternative form of developing land allows you to work with the community on a variety of different projects. As of now, our flexible development bylaw is obsolete, because it does not grant developers any bonus units for following certain desirable behaviors, such as setting aside open space.

Under this flexible development bylaw, you start with your basic number of units that are allowed under current zoning, setbacks, and septic limitations. Then, you try to preserve as much open space as you can. If you set aside land for conservation, you will get a density bonus. Aside from protecting open space, flexible developments are usually built closer together, and saves developers road costs (reducing amounts of impervious surfaces by doing so).

This bylaw would replace our current Conservation Subdivision Bylaw and update our flexible development bylaw eliminating setbacks and lot lines, so there is more flexibility for efficient development.

Planned Residential District: PDDs are an invitation for developers to come to town, as it allows them to do development by referendum.

PDDs are basically a separate single-purpose district. Developers come to the Town with an idea and propose it to staff members. Developers must have an exact idea of what they want to build, such as a 7 room bed and breakfast. They are not allowed to say that on a certain parcel they would either do x, y, or z, but are leaning towards doing x. They must present exactly what they mean to build in order for staff members to know whether the use should or should not be allowed.

If the staff approves the project to move on to the next stage, they will write the zoning for that lot and the developer has to propose it at Town Meeting, where it needs a 2/3 majority vote to pass.

PDDs can be either commercial in nature, or residential. They can even be mixed-use if we allow for it.

The only concern attendees had was that we should delineate the basis on which town staff can deny a project that they think would be injurious or not advantageous to the area.

Performance Standards: Mr. Bobrowski described this section "as a sushi menu" we can pick from. This section expands performance standards from the usual parking/signage/landscaping approach, by adding provisions such as, how much of a site can you disturb? What happens if you hit an archeological site? What about utility connections, fire safety standards, etc.?

Attendees asked that performance standards be made for specific. For example, Mr. Hooper asked whose performance standards are we using? Such as, we could set a maximum level of light intensity, but what if there is a bad thunderstorm and the brightness is not bright enough to light up the area? Who sets the exact threshold levels? Saying 'reasonable brightness' leaves it open for interpretation, and makes enforcement very hard. If we are going to adopt more specific performance standards, then we need to agree on particular thresholds. Another option would be to have staff members or consultants who are familiar with performance standards for different fields, and consult them every time a project comes up to make sure that what is being proposed is 'reasonable', but then this might place an extra cost on the Town.

Large-Scale Ground-Mounted Solar Photovoltaic Installations: There was further discussion on where solar is allowed to go. Massachusetts Superior Court Judge Piper says that solar bylaws cannot be prohibitive or unnecessarily restrictive, unless you're denying them to protect the public good. However, Mr. Bobrowski pointed out, it is hard to argue that solar fields could have negative effects on the public. If you argue they're unsafe for children, for example, the developer could fix that by fencing in the solar field. If you argue that they threaten the welfare of the neighborhood, in which ways? They have no traffic impact. And if you say that solar developments are injurious to health, that is not the case with the current photovoltaic systems. In conclusion, it is very hard to deny an application for solar panels.

However, it is worth noting that the language that Judge Piper used is not the exact language of the Dover Amendment. For example, you can say that you allow large-scale solar in every district except residential, but you cannot say the same about Dover Amendment uses. In summary, where solar can or cannot go is currently in litigation. Specifically, there's currently a case on whether or not a developer can do a solar field in a residential district.

### **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.