

SHARON ZONING BOARD OF APPEALS
MINUTES OF WEDNESDAY, December 1, 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, December 1, 2021, at 7:00 P.M. The following members were present as established by roll call: Abe Brahmachari, Joe Garber, Chair and David Young. Also present from the town: Kris White, Building Inspector, Peter O'Cain, Town Engineer. Mr. Garber, Chair, read Covid19 protocols per the Governor of MA and procedural ground rules.

7:00 PM - CASE 1890 – 1505 Bay Road – Birch Hill Subdivision

Present for the applicant: Steve Gioiosa, SITEC, Inc. Civil and Environmental Consultants

Chair started the meeting by giving Peter O'Cain the ability to screenshare and asked if the architect for the applicant needed screenshare.

Mr. Gioiosa started the meeting by introducing himself and stated he represented Birch Hill Trust the proponents for application. This is a Special Permit request for approval of a Flexible Development Plan for a parcel of land located off Prince Way and Bay Road. He shared his screen so that he could show the overall site. This parcel is approximately 22 ½ acres and they have been evaluating this property for a number of years. And when they started this evaluation, they had initially reached out to Conservation knowing that they would have some level of jurisdiction on this property. They delineated the wetlands, filed the request to have the line reviewed and approved. It was approved for the project. Then they started the overall planning process. Started looking at it with a conventional subdivision in mind. Mr. Gioiosa presented a plan that represents their proposed yield plan for the site in which they laid out subdivision road, originating at Prince Way and terminating into a cul-de-sac which has five houses meeting conventional zoning requirements. On the Bay Roadside there is another cul-de-sac proposed on the conventional plan in lots 6 through 8. They also proposed a large open space and a small open space parcel next to dry pond.

There were several meetings over a few years, and they looked at different options and made different adjustments to the plans but in the end the applicant studied the town zoning a little closer and saw that there was a provision or a Flexible Development option. A meeting was scheduled this past summer with the Planning Board and presented a schematic option for the Flexible Development Plan to see if the Planning Board thought it would be a good idea to explore it in more detail and proceed through the permitting process. Received positive feedback from the Planning Board. It's a two-step development process, the first step is for the ZBA to determine that a Flexible Development is appropriate, and that the general configuration conforms with intent of the by-law. Then bound to go back to the Planning Board and any of the other Town agencies to obtain all the other necessary permits to build out this project.

Mr. Gioiosa presented another plan. Mr. Garber asked Mr. Gioiosa about his Parcel A & B, were left open because of the wetlands. Mr. Gioiosa explained that they are a combo of wetlands and uplands and explained the plan. Mr. Garber asked if Parcel B could still be developed. Mr. Gioiosa said when and if the project gets approved, Parcel B does not have legal frontage on Dry Pond Road. They do not have physical frontage or access to Dry Pond, so it's truly an open space. The plan represents the overall Flexible Development Plan, and the lots are now compressed. The street coming in off of Prince Way is now 90' shorter than what would be required under the conventional scheme. Kept the same number of lots but they are reduced in size. 26 – 30,000 square feet. They did that to work around the no disturb zone for wetlands and provide enough room for the septic systems for the lots and other infrastructure. The major advantages are able to eliminate impervious surface, land clearing, grading, filling and long-term maintenance associated with the development of street A. In keeping with the open space criteria, reduce lot coverage and impact on natural environment and keep all open space undisturbed.

Mr. Gioiosa stated that they believe that laid out the plan to meet the criteria which is reduction of land alteration and reduction of critical disturbance. He also stated again that they had met extensively with the Planning Board and Conservation and the Board of Health. Last fall received Conservation Commission approval for development of the conventional roadway which is a more extensive system. Mr. Gioiosa noted that they do have an existing Order of Conditions that was issued last fall, and which is valid for 2 years to allow the construction of the conventional roads. They also approved the concept grading for seven of the eight lots. The Conservation Commission was not comfortable with Lot 7 because of the proposed crossing it would require a driveway crossing. They asked not to show it on the plan, and they were not going to approve it as a buildable lot. Tonight's application is a Special Permit request.

Mr. Garber asked Mr. O'Cain for his questions/comments. Mr. O'Cain indicated that Section 4300 is the Flexible Development zoning laws and that the normal the application procedure is to go to the Planning Board first and file a preliminary plan. But they didn't do it that way, there different ways to do it so we are up in the air on a couple of the lots. Section 4330 says that you can vote to authorize a Flexible Development as long as you have the conditions delineated in that section. Which includes the number of lots can't exceed the number of lots you would have in a conventional design. If you write that into a condition of approval, then that issue is addressed and the ZBA doesn't have to weigh in on that. In Section 4350, decision criteria, reduction of impact of the environment, traffic impacts are reduced by having two separate cul-de-sacs and the impact to environment are reduced so all of the criteria have been met for the ZBA to consider.

Mr. Garber stated that the only one we want to delineate tonight would be Section 4330 which will put it back into the hands of the Planning Board for now. Mr. O'Cain, that's my understanding.

Mr. Garber shared his screen with the Zoning Codes.

Mr. Brahmachari for asked what the size of the lot was and what the land was zoned. Mr. G answered. Then Mr. Brahmachari brought up that the ZBA is usually the last stop and that there is a section that indicates that the Planning Board must approve the number of lots in a conventional development. Mr. Garber said if we delineate 4330 it will go back to the Planning Board for now. Mr. Brahmachari asked if the Planning Board as seen the conventional design and asked if they endorsed it. Mr. O'Cain referred to 4321a and stated it seems contradictory. He's not sure if they should have file d with the Planning Board first but it will be addressed either way, we do this. Mr. Brahmachari thinks it's a good thing because the ZBA gets to know about the project beforehand and the way he is reading this is that it is a preliminary informal review and that a formal review will follow with the Planning Boards approval. Peter replied to Mr. Brahmachari stating that it seems that Section 4330 what the ZBA is voting on is if a Flexible Plan is a more desirable option and the details are hammered out in the Planning Board.

Mr. Garber read a letter from Margaret Arguimbau; Conservation Commission Chair submitted on October 28, 2021

"The Conservation Commission has reviewed this proposal and supports this application. This site includes sensitive wetland resource areas, as well as local and state Buffer Zones. The applicant has worked with the Commission to minimize and avoid impacts to those areas. It is understood by the Commission and the applicant that any proposed work on Lot 7 may need to be brought before the Commission for further review. We believe that acceptance of this proposal and request under case #1890 before your Board provides the best protection for areas under our jurisdiction"

Mr. Garber thinks that based on this letter we can figure out our next move. He asked Mr. Young if he has any comments. Mr. Young stated that he agreed with Mr. Brahmachari that ZBA is usually last. Mr. Young asked about the positions of the 7 houses on the 7 lots that are buildable. Will they be far enough back on the set back to accommodate future additions or changes? Mr. G indicated that they looked at typical house placements which determined the sizes and that all 8 lots have nice shapes, but they will require regulatory review at that time. Mr. Young asked that there will only be 7 houses. Mr. G noted that it is a potential future lot that could be deemed buildable.

Mr. Garber asked Mr. Brahmachari if he had anymore comments. He suggested a joint session with ZBA and Planning Board. It may make things easier. He also brought up concerns about the number of lots to be developed.

Mr. O'Cain responded to Mr. Young is that the lots are sold off to builders. Could be more than one and what the buyers want will drive what house is placed on the lot. And these lots are a possibility but not necessarily of what

will happen. To Mr. Brahmachari the actual language in 4331 the number of lots to be developed should not exceed the number of lots to be developed in a conventional plan. The Planning Board will sort it out.

Mr. Young only question was if the lots met the requirements in 4332. Are all lots greater than 20,000 square feet? And the setback is not less than 100'?

The Planning Board will determine the number and size of lots.

ZBA's condition would be that if all requirements of Section 4330 are met they can move forward.

Mr. Garber asked Mr. Gioiosa if that was what he was looking for. Mr. Gioiosa thinks it's perfect it will give them what they need to move forward with the other boards.

Mr. Garber asked audience or residents comments or concerns. No response.

Mr. Garber asked Mr. White if he was satisfied. Mr. White thinks it's a nice design and it meets a flex design. He also mentioned if you read Section 4323 it points in the direction of Board of Appeals approval first then subdivision control Planning Board approval at a later date.

Mr. Garber asked Mr. Gioiosa if he wants to close this hearing for tonight.

Motion:

Chair motioned to close tonight's hearing for Case 1890 - 1505 Bay Road – Birch Hill Subdivision and have it move to the Planning Board. All of the criteria in Section 4330 Basic Flexible Development (4331, 4332, 4333 & 4334) will have to be met. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Brahmachari, Young).

7:40PM - Case 1891– 15 Pleasant Park Road

Present for the applicant: Residents Martin and Toby Grandberg, Larry VanLeer, Developer

Mr. Garber read, into the record, a memorandum from Kevin Davis, Agent of the Board of Health dated November 23, 2021

"I have reviewed the ZBA Application for Hearing to remodel the interior of the dwelling and enlarge the porch at 15 Pleasant Park Road. According to the information provided, the proposed work adds no additional design flow nor imposes a less conformant setback to the existing septic system. Therefore, in light of the after mentioned facts, I have no concerns regarding septic at this time."

Mr. Garber read, into the record, correspondence from Margaret Arguimbau, Conservation Chair dated November 23, 2021.

"I have reviewed the modification of the special permit application. The site is within the Groundwater Protection District, but not located near any sensitive wetland resource areas, local or state Buffer Zones; therefore, I have no particular objections to offer regarding the proposed work under Case #1891."

Mr. Garber asked who will be speaking for the Applicant. Larry VanLeer the contractor went over the proposed plans and explained the new footprint. The existing porch will be removed and a bathroom, laundry and eating area will be added and make the kitchen accessible to the back porch.

Mr. Garber asked the Board if they have any questions. Mr. Brahmachari did not. Mr. Young asked what was going near the dining room in the front right. Mr. VanLeer indicated that will be the laundry/bathroom area.

Mr. Garber read the Legal Ad into the record. Asked if anybody had any questions or concerns. No response. Mr. Garber asked the applicant if they want to close the case. The applicant replied, yes.

Motion:

Chair made a motion to close Case 1891 with Standard Conditions, that this is a 3-bedroom house, and it will remain a 3-bedroom house. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Brahmachari, Young).

Chair made a motion to Vote to Approve. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Brahmachari, Young).

Chair let the applicant know that they have to wait the standard appeal period and recommended that they register the signed decision.

Mr. White wanted to clarify the process. The ZBA has 14 days to file with the Town Clerk, once it's filed the 20 days appeal period starts. Once the appeal period has expired, the applicant will go to the Town Clerk and get a signed copy of the 20-day appeal period then record the decision with the Registry of Deeds then file for the building permits.

8:00PM - Case 1892– 30 Sunset Drive

Present for the applicant: Da Ha

Mr. Garber read the Legal Ad into the record.

Mr. Garber read correspondence from the Board of Assessors dated October 22, 2021.

"I, Jeffery L. Funk, Administrative Assessor of the Town of Sharon, hereby certify that attached is a list of abutters in the Town of Sharon within 300' radius of the above-mentioned location in the Town of Sharon. This list is compiled from the record of the Board of Assessors most recent tax assessment."

Mr. Garber read correspondence from the Board of Health dated November 17, 2021.

"I have reviewed the ZBA Application for Hearing to construct and addition at 30 Sunset Drive. According to the information provided, the proposed work adds no additional design flow nor imposes a less conformant setback to the existing septic system. Therefore, in light of the after mentioned facts, I have no concerns regarding septic at this time."

Mr. Garber read correspondence from the Margaret Arguimbau; Conservation Commission Chair dated November 22, 2021.

"I have reviewed the modification of the special permit application. The site is not located near any sensitive wetland resource areas, local or state Buffer Zones; therefore, I have no particular objections to offer regarding the proposed work under Case #1892."

Mr. Garber asked the applicant if he was representing himself or if he had an architect. Mr. Garber screenshared the plot plans and drawings. Mr. Ha explained the plans and that he wants to demolish the existing deck and use that space to expand to the right-hand side. The proposed plan will include a new deck, one added garage, one dining room and one office (second floor) to the back of the existing building.

Mr. Garber asked the Board if they have any questions. Mr. Brahmachari said that he doesn't have any concerns because even though the new addition its going closer to the property line it is still within the setback. He also asked where the septic was located, and Mr. Ha indicated that it was located in the front. No further comments from Mr. Brahmachari. Mr. Young asked Mr. Ha if he was adding a second garage and Mr. Ha confirmed that he was adding a second garage. The dining room will be over the new garage. Mr. Young also asked if the new deck will be a one- story deck, Mr. Ha confirmed.

Mr. Garber opened the questions to the abutters. Mr. Gregg Whitaker asked, for perspective, how large the existing deck was vs. the proposed extension. Mr. Garber noted the existing deck is 10'6" x 11' and the new deck is 4' bigger across and roughly about the same in the depth.

Mr. Garber asked Mr. Ha if he wanted to close the case.

Motion:

Chair made a motion to close Case 1892 – 30 Sunset Drive with Standard Conditions and that it is a 4-bedroom house, and it will remain a 4-bedroom house. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Brahmachari, Young).

Chair made a motion to Vote to Approve. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Brahmachari, Young).

Chair let the applicant know that they have to wait the standard appeal period and recommended that they register the signed decision.

Minutes:

November 17, 2021 it was decided to hold off approval to the next meeting.

The Board briefly discussed the ZBA Schedule for 2022. Mr. Garber suggested that Ms. Katapodis, go through the calendar and note the dates for the 2nd and 4th Wednesdays to schedule meetings.

The meeting adjourned 8:30PM

Respectfully submitted