

**SHARON ZONING BOARD OF APPEALS
MINUTES OF WEDNESDAY, March 23, 2022**

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.

Mr. Garber, Chair called the meeting to order at 7:01 PM.

A virtual meeting of the Sharon Zoning Board of Appeals was held on Wednesday, March 23, 2022, at 7:00 P.M. The following members were present as established by roll call: Joe Garber, Chair, David Young, Hemant Mehta, and Arnold Wallenstein. Also present from the town: Kris White, Building Inspector & Pasqualino Pannone, Planning Board. Mr. Garber, Chair, read Covid19 protocols per the Governor of MA and procedural ground rules.

7:01 PM - CASE 1896 – 22 Maple Ave

Present for the applicant: Laura and Rory Smead & Kerri Murray, Architect.

Mr. Garber read the Legal Ad that was published in the “Times Advocate” on 3/2 & 3/09/22, into the record.

Mr. Garber read a letter from Josh Philibert; Conservation Administrator submitted on February 17, 2022

“I have reviewed this application and performed the customary inspection. The extent of proposed work will not occur within any wetland resource areas or within any associated local or state Buffer Zones. I have no objections to offer regarding the proposed work under case #1896.”

Mr. Garber read a letter from the Applicants Laura and Rory Smead; submitted on February 14, 2022

“Dear Members of the Board, We request this application for relief from the Zoning Ordinances be accepted by the Zoning Board of Appeal for our Single-Family Home located in General Residence District at 22 Maple Ave in Sharon, MA. We request relief from meeting Zoning Ordinance Section 2440 District Regulations 2440 General Residence District requirements to construct an addition located on the conforming side of the home. The proposed addition does not increase the degree of non-conformity of such structure. The proposed addition would not intensify the existing nonconformities and would not be substantially more detrimental than the existing non-conforming structure or use to the neighborhood. Further, we request relief as the proposed addition cannot otherwise be constructed due to the lot's nonconforming nature and since the undersized lot and setbacks are a preexisting condition. We believe the proposed addition complements the existing Cape Cod Style home while meeting requirements for the intended use The proposed exterior modifications are sympathetically designed with appropriately scaled elements and materials to match the existing house and further reinforce the home's aesthetic qualities and district. The proposed massing is scaled to blend with the original house and preserves the passage of light and air. The addition does not create a situation where any neighbor's quality of life, property value, or peaceful co-existence would be negatively affected. Neighboring Single-Family Homes are of similar size, and the function of the space remains in-line with the desires of town occupants. Drawings in support of the requested relief are attached hereto. We appreciate your time in reviewing this request. Respectfully submitted, Laura and Rory Smead.”

Mr. Garber couldn’t locate a letter from the Board of Health.

Kerry Murray, Architect for the Smead’s, presented the plot plan which shows the non-conforming lot on the left side of the house. Ms. Murray explained that the proposed addition is on the conforming side of the home and falls within the required setbacks. Ms. Murray presented the elevation plans and explained that existing home is a one and a half story Cape Cod style home, and it has a shed dormer in the rear of the home. Much of the home on the nonconforming side will be maintained. The proposed addition will allow a more usable second story but continue

to keep the main ridge line in place. The existing shed dormer will be continued on the rear addition and give it some more addition and architectural style to the rear of the home. The addition is roughly 473 square feet, and they would be maintaining the existing foundation. Ms. Murray also explained that they are trying to maintain much of what is existing in the home.

Ms. Murray presented some model elevations to show what the house would like aesthetically from the outside. She also noted that it would be in line with the style and materials that you find in the area.

Mr. Garber asked Ms. Murray to go back to the plot plan because he has some questions regarding asked about the proposed deck relative to the septic system. Ms. Murray explained that it may have some sonotubes so that they can stay at least 10' from the septic tank. Mr. Garber stated that the house was a three bedroom and it's not going to increase. Ms. Smead responded that the house is currently a 2 bedroom but will be increased to a 3- bedroom. Ms. Murry stated that the septic system is rated for a 3-bedroom home.

Mr. Garber asked the board if they have any questions. Mr. Young wanted to confirm that the septic tank was rated for a 3-bedroom home and if they were replacing the septic system. Ms. Smead replied yes and that it was oversized for the existing house and explained that they will be replacing the septic system since the current system is old.

Mr. Garber inquired about the shed and wanted to know if it was going to interfere with the septic leach field and asked if there was a connection going into the shed. Ms. Smead explained that it's a Presby Septic system and that is a vent that will hidden against the side of the shed.

Mr. Wallenstein wanted to confirm that it is a non-conforming use and asked the size of the addition. Ms. Murray explained that the addition is approximately 473 sq. ft or roughly 17 feet x 26 feet. Mr. Wallenstein asked if they were increasing the amount of non-conformity. Ms. Murray replied that they will not be increasing the size of the non-conformity because the addition will be on the conforming side of the property. Mr. Wallenstein asked if they were meeting all of the setbacks and Ms. Murray confirmed that they are all met.

Mr. Mehta stated that he has reviewed the drawings and all documents that have been supporting the applications. He noted that they are all very informative and all of the information is presented properly. He acknowledged that all the requirements are met, and he doesn't have an opposition.

Chair opened the meeting to the public/abutters for comment.

Julie Kaufman of 67 Billings Street had a concern regarding the leaching field in proximity to her garage and wanted to make sure it wouldn't be an issue. Mr. Garber explained that if it was an issue the Conservation Commission would have expressed it in the letter. for the septic.

Walter Canuto of 28 Maple Street expressed that they are in support of the addition.

Mr. Garber asked the applicants if they would like to close the case and if the board had any other questions and comments.

Motion:

Chair made a motion to close Case 1896 - 22 Maple Ave. Mr. Young seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Young, Wallenstein).

Chair made a motion to Vote to Approve Case 1896 with Standard Conditions. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Young, Wallenstein).

7:34PM - Case 1897 – 3Arboro Drive

Present for the applicant: Residents Samuel A. Aylesworth and Skaidrit A. Bateman and Joel H. Fishman, Attorney.

Mr. Garber read the Legal Ad that was published in the "Times Advocate" on 3/2 & 3/09/22, into the record.

Mr. Garber read, into the record, a memorandum from Kevin Davis, Agent of the Board of Health dated March 4, 2022.

“I have reviewed the ZBA Application for Hearing to construct a deck at 3 Arboro 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, into the record, a letter from Josh Philibert, Conservation Administrator, dated March 22, 2022:

“I have reviewed this application. Based on the plans furnished, showing the addition to the existing deck on the west side (front) of the residence at 3 Arboro Drive, I do not have any concerns about this project regarding potential impacts to the wetland and wetland buffer present on the eastern (rear) half of the property. The proposed work appears to be well outside of the 100-foot resource area buffer and filing with the Conservation Commission will not be required. I have no objection to the work proposed under case #1897.”

Mr. Garber opened the meeting to Mr. Fishman. Mr. Fishman introduced himself and the homeowners, Samuel A. Aylesworth and Skaidrit A. Bateman. He noted that the applicants along with their 3 children have lived in this house since 2019 and in the Town of Sharon since 2009. They are requesting a Special Permit to extend the depth their lower deck which is already within the 50' front setback an additional 8.3 feet further into the setback. This deck will be completely rebuilt with code compliant railings which will be safer. They also want to modify the deck on the second level, with no further extension into the setback, so that the decks will look the same.

Mr. Fishman then presented the proposed deck site plan. He pointed out that the lot is long and narrow as well as the house and that the house is diagonal to the street. Mr. Fishman explained the dimensions of the proposed decks. The current deck at its closest point is 36' from Arboro Drive the proposed at its closest point will be 27.7' from Arboro Drive, which is 8.3' closer. The required setback in district is 50' and the front stairs will be pushed forward an additional 6' and an there will be stairs added to the side that will be 10' wide.

Mr. Fishman then presented the floor plan of the proposed deck as well as pictures of the current deck as well as a photoshopped picture of the proposed deck (to provide the board with an idea of how it will look). Mr. Fishman noted that the railings on the current deck are not code complaint. The new deck will use a cable rail system for the railings. Mr. Fishman referred to a court case where the findings were that if the structure is already in the setback and the proposed structure will push it further into the setback it will require a Special Permit.

Mr. Garber asked if the existing deck is going to be demolished. Mr. Fishman clarified that the lower deck is being completely rebuilt. Mr. Garber stated that from his end it looks good, and he didn't have any questions or comments. Mr. Garber opened it to the board members.

Mr. Young inquired why it's a "Special Permit" and not a Variance. Mr. Fishman stated that he would read the memo which mentions the court case. He explained that if you aren't currently encroaching into the setback then you would need a Variance but if you are already encroaching the setback and want to further that, you need a Special Permit.

Mr. Wallenstein wanted to follow up regarding the court case and he wanted some clarification on what requires a Special Permit vs. a Variance. It was discussed that since the use of the lot is already non-conforming, then you need a Special Permit which has its own criteria. Mr. Wallenstein also asked about the setback and how many extra feet would be encroaching, but he doesn't see it being more detrimental.

Mr. Mehta didn't have any questions and had no issues.

Mr. Garber opened it to the abutters for comment.

Molli Denrich of 5 Arboro Drive wanted to state that they are in support of the project.

Mr. Garber asked the applicants if they would like to close the case and they responded, yes.

Motion:

Chair made a motion to close Case 1897, 3 Arboro Dive. Mr. Young seconded the motion. Approved by unanimous roll call vote 4-0-0 (Garber, Young, Wallenstein, Mehta).

Chair made a motion to Vote to Approve Case 1897 with Standard Conditions. Mr. Young seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Young, Wallenstein).

8:01PM - Case 1898 – 53 Harold Street

Present for the applicant: Residents Ledjo Rrapushi and Elva Rrapushi

Mr. Garber read the Legal Ad that was published in the “Times Advocate” on 3/2 & 3/09/22, into the record.

Mr. Garber read correspondence from the Kevin Davis; Agent of Board of Health dated March 4, 2022.

“I have reviewed the ZBA Application for Hearing to expand the existing dwelling at 53 Harold Street. According to the information provided, the proposed work adds no additional design flow nor imposes a less conformant setback to the current septic system. Therefore, in light of the after mentioned facts, I have no concerns regarding septic at this time.”

Mr. Garber read correspondence from Josh Philibert; Conservation Administrator dated February 24, 2022.

“I have reviewed this application. I do not have any concerns about impacts to wetland resources from this project, and I have no objection to the work proposed under case #1898.”

Mr. Garber opened the meeting to the applicants. Ms. Rrapushi presented the drawings that she prepared and explained the project. She started with the plot plan and explained that they are keeping the existing footprint of the house but just adding a second floor. Mr. Rrapushi noted that there is an existing deck that is approximately 80 square feet that will become part of the interior of the proposed house. And they will be adding a new deck which is 9 x 12 feet. She also explained that the roof will overhang the footprint of the house.

Ms. Rrapushi presented the existing plans. She explained that they are keeping the same foundation will be adding some reinforcement by adding some columns in the basement area. The existing ground floor has the bedrooms, the house has 3 bedrooms and will stay a 3-bedrooms. They are adding a second entrance to the house and relocating the kitchen. On the second floor they are adding another bathroom and adding the 3-bedrooms. Ms. Rrapushi noted that on the first floor one of the bedrooms will become a gym/studio because they both work from home. She explained that they need more space to live comfortably. She also presented some renderings.

Mr. Garber asked Ms. Rrapushi to go back to the plans because he had a question on the back studio gym and why it has a door. He noted that sometimes the board would look at that and think it could potentially be another bedroom. Mr. Garber asked to go back to the plot plan to confirm the increase in the non-conformity because it's a corner lot and may have some additional criteria. Mr. Garber said he doesn't have any issue with the additional non-conformity. He asked to revisit the first level floor plan to get some reference on the roof overhang. He asked what the dimensions were on the landing and the steps. Mr. Rrapushi answered, 5 feet.

Mr. Young recapped that they are increasing the square footage of the house, keeping the same footprint, and taking over the existing deck to include in the interior. Its currently a 3 -bedroom house and will remain a 3-bedroom house. He inquired if the first- floor bathroom was full or not. Mr. Rrapushi stated that it is a full bath. Mr. Young had no further questions or comments.

Mr. Wallenstein wanted to confirm that they are adding a second floor and maintaining the footprint. He is concerned with the studio/gym being next to a full bath could easily become a 4th bedroom. Mr. Rrapushi assured the board that it will not become a bedroom. They love the Town and want to raise their children and they are trying to make it their dreamhouse so that they can stay for a long time. Mr. Wallenstein asked the other board members, does adding a story raise any concerns about increasing the degree of non-conformity. Mr. Garber stated that it's not unusual for that street to have second stories added to the houses.

Mr. Mehta expressed that the questions raised by the other members were the questions he had. He stated that he is in concurrence and had no further questions.

Mr. Garber opened the meeting to the abutters. No comments.

Mr. Garber asked the applicants want to close the case. Mr. Rrapushi thanked the board for their patience and expressed that this was the first time that Ms. Rrapushi has presented in the US.

Motion:

Chair made a motion to close Case 1898 – 53 Harold Street with Standard Conditions. Mr. Young seconded the motion. Approved by unanimous roll call vote 4-0-0 (Garber, Young, Wallenstein, Mehta).

Chair made a motion to Vote to Approve close Case 1898– 53 Harold Street with Special Conditions to remain a 3-bedroom house. Mr. Young seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Young, Wallenstein).

Minutes:

December 1, 2021, have to hold off approval until the next meeting when Mr. Young is in attendance.

March 9, 2020, have to hold off approval until the next meeting when Mr. Brahmachari is in attendance.

The meeting adjourned 8:20 pm

Respectfully submitted