

**SHARON ZONING BOARD OF APPEALS**  
**MINUTES OF WEDNESDAY, March 9, 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. He introduced the new alternate board members Mr. Arnold Wallenstein and Mr. Hemant Mehta. Read the following:

A virtual meeting of the Sharon Zoning Board of Appeals was held on Wednesday, March 9, 2022, at 7:00 P.M. The following members were present as established by roll call: Joe Garber, Chair Abe Brahmachari, Hemant Mehta, and Arnold Wallenstein. Also present from the town: Kris White, Building Inspector. Mr. Garber, Chair, read Covid19 protocols per the Governor of MA and procedural ground rules.

**7:04 PM - CASE 1893 - 2R and 4R General Edwards Highway (I-95)**

Present for the applicant: Phil Macchi of Macchi & Macchi Counsel for and on behalf of HPL Enterprises.

Mr. Garber read the Legal Ad that was published in the "Times Advocate" on 2/16 & 2/23/22, into the record.

Mr. Garber read a letter from Josh Philibert; Conservation Administrator submitted on February 1, 2022

*"I have reviewed this application and performed the customary inspection. The extent of the proposed billboard installation work will not occur within any wetland resource area or within any associated local or state wetland buffer zones, therefore, I have no particular objections to offer regarding the proposed work under case #1893.*

*The western edge of the subject properties includes jurisdictional wetlands which were flagged and surveyed as part of an NOI filing to the Conservation Commission and for which Orders of Conditions were issued. It is presumed that the work associated with the billboard will not include areas within the buffer zone of the identified wetlands. Were the billboard project to require earth disturbance or clearing, for equipment access or other reasons, in the western half of the parcels, then the applicant would be advised to contact the Conservation Commission for further guidance regarding obtaining an amended Order of Conditions."*

Mr. Garber shared his screen to pull documents submitted with the application so Mr. Macchi can present these documents. Mr. Macchi asked to scroll to Exhibit (plot plan) which would indicate the planning question. Mr. Macchi introduced himself and asked permission to talk through the highlights of the case. Mr. Macchi stated that Optima Hospitality Group, LLC is the owner of the parcel and HPL Enterprises has a lease with them. He also noted that Optima Hospitality Group, LLC is proposing hotel to be located behind the Applebee's.

Mr. Macchi explained that lot has all of its frontage in Walpole and none in Sharon, and that they have access through the Walpole site. He also stated that this project will have no impact on conservation. The land clearing will be minimal. Mr. Macchi referenced where the proposed billboard will be located on the plot plan. He stated that it will be right on I95, and it will have no impact on Route 1 or any of the property abutting Route 1 in Sharon. The site is undeveloped at present. The proposed construction for this application is purely for the billboard. He stated that he believes that they meet all the zoning requirements for a digital billboard with the exception of height. Therefore, they are asking for a sign permit and a variance for the height of the sign. He explained that they are allowed one free standing sign per lot and that the by-law allows 720 sq. ft., and they are proposing 672 sq. ft. and that they will conform with all of the criteria with the intervals, programs, etc. in the by-laws. Regarding the height Mr. Macchi explained that the by-law requires for 60 feet in height, and you wouldn't want a higher sign than this on Route 1 but on I95 you have 60 feet trees, so we have a choice we can either get above the trees or cut them all down. He noted that they would prefer not to cut them down but realizes that it is a variance that they have to meet the three conditions. He explained that they are asking for 15 additional feet, in order to minimize the number of

threes that have to be removed. If the board chooses to grant the variance, it will facilitate efficient communications, promote a good relationship, help maintain visual diversity along 95, and support the business vitality by facilitating advertising. Mr. Macchi summarized by stating that the billboard as proposed is in the best location with the least amount of impact and strongly advocates for the variance. He also noted that the 15 feet will not affect any of the Sharon streetscape. Mr. Macchi opened the discussion questions.

Mr. Garber stated that he is happy with the presentation and believes that the sign is in a good spot.

Mr. Brahmachari stated that he reviewed the application but wanted to take a look the other drawing in Exhibit C. He mentioned that he was interested in seeing a picture or rendering showing the views from 95 with the 60 -foot high sign and what the change would look like at the 75 feet. Mr. Macchi said that they don't have that but would be happy to provide and come back at the next meeting. Mr. Brahmachari also wanted to confirm that if the billboard was at 60 feet that it would be completely obscured by the tree line. Mr. Macchi stated that the engineer has confirmed this. Mr. Brahmachari also commented that the minimum set back from the property line is 5 feet, but the plan is showing 4.8/4.9 feet. He asked Mr. White to comment on that. Mr. White believed it to be 5 feet as well. Mr. Macchi said that he will confirm the set-back when he comes back and make sure that it is within the minimum setback, when he comes back for the next meeting.

Mr. Garber asked that if we could add some time to the next hearing scheduled on March 23<sup>rd</sup> to review the rendering. He asked any of the other board members if they had any questions or comments.

Mr. Wallenstein had some informational questions. He asked what the average height of a billboard on this part of 95. Mr. Macchi stated everyone that he has done is 75 feet, some lower and some higher. Mr. Wallenstein also asked if there are any federal height restrictions since 95 is an interstate. Mr. Macchi answered that there aren't any, but they do have to apply for a permit from MassDOT and comply with their regulations. Mr. Wallenstein also asked if the sign was viewable from any residential areas, Mr. Macchi confirmed that it is not. Mr. Wallenstein also expressed concerned of any wind issues. Mr. Macchi said that the proposed sq. ft. of the sign is 672 and the by-law allows 720 sq. ft. There was more discussion of cutting trees, Mr. Wallenstein noted that the cutting would be necessary in order to see the sign if the variance isn't granted and thought a visual representation as Mr. Brahmachari requested would be helpful to help understand the hardship.

Mr. Mehta stated that he has reviewed the application documents and that they provide good information and that he does not see any issue with the way the project is being planned. He noted that the presentation was good to convey the approach and reasons, etc. Mr. Mehta believes that this okay if we don't have to cut the trees. He is in concurrence with granting the permit and does not see any issue with the 75-foot height. He also agrees that a visual representation of the sign heights would be helpful.

Mr. Brahmachari asked if the sign would have screen on both sides. Mr. Macchi answered that it will only have screen on one side and right now you can only see it on the southbound side.

Mr. Garber opened the meeting to abutters or interested parties that would like to address the issue of the billboard. There were no responses.

**Motion:**

Chair motioned to continue tonight's hearing to March 23, 2022, at 7pm for Case 1893- 2R and 4R General Edwards Highway (I-95). Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 4-0-0 (Garber, Brahmachari, Wallenstein, Mehta).

**7:43PM - Case 1894 – 42 Massapoag Ave**

Present for the applicant: Residents John Arthur Pearson and Sara Beszterczey and John Flatley, Contractor.

Mr. Garber read the Legal Ad that was published in the "Times Advocate" on 2/16 & 2/23/22, into the record.

Mr. Garber read, into the record, a memorandum from Kevin Davis, Agent of the Board of Health listing the Requirements of the Board of Health.

*"As an applicant to the Zoning Board of Appeals, you will be required to provide the following information to*

*the Health Agent:*

- *Certified plot plan showing all existing and proposed dwellings/additions, current septic system locations, architectural layout plans (if applicable), and FEMA based flood elevations.*
- *If an addition to the structure is proposed a certification of current septic system status is required (A Title 5 Inspection Report or Certificate of Compliance no more than 2 years old).*
- *Any and all supporting documentation related to your project.*

*The above required documentation should be submitted at least two (2) weeks prior to your hearing date. Otherwise, this Department may not have sufficient time to review your documents and make comment."*

Mr. Garber read, into the record, correspondence from Jeffrey Borkan and Suzanne Jacobs, neighbors, dated March 8, 2022:

*"To Whom It May Concern,*

*We are writing as neighbors of Sara Beszterczy and Art Pearson of 42 Massapoag Ave, Sharon, MA, in support of their application for a zoning variance required in order to proceed with their proposed home construction project. We have seen the project plans and feel that the proposed welling will only add value to the neighborhood. From the street, the house size will not be noticeably taller or wider, so we are confident that it will not appear out of place among the existing homes on the street.*

*We hope the Board of Appeals will approve the needed variance and allow construction to begin.*

*Sincerely,  
Jeffrey Borkan and Suzanne Jacobs."*

Mr. Garber presented the plot plan to begin the discussion. Ms. Beszterczy and Mr. Pearson introduced themselves and stated that they have been living at this residence for 13 years. Mr. Pearson explained that when they bought the property the inspector informed them that the front stoop, which is made of brick and concrete is already being penetrated by water and will need to be replaced. He also explained that the neighbors that wrote the letter are the only neighbors that can see the front stoop from their house. Mr. Pearson stated that they would be replacing the front stoop with a porch that would extend approximately 5 feet. This will provide a little more space and match the neighbor's porch and add some continuity. He also explained that aesthetically look a lot better according to the shape of the house and add some symmetry. Mr. Pearson also stated that they are also asking to slightly expand the back porch, when they bought the house, the inspector said it was on its last leg and would eventually need to be replaced.

Mr. Flatley explained that the back existing deck would go back 4 more feet and come over closer to the center of the backyard about 5 feet. The bulk of it would be moved away from the lot line and push it back towards the center of the property.

Mr. Garber presented the elevation plans of the front stoop and mentioned that he noticed that they don't show the setback from the street from the base of the steps. Mr. Brahmachari explained the requirements for the front setback is 60 feet and that the building is already into this, it is an existing non-conforming structure but with the steps it's coming even closer, and this was something to be discussed. Mr. Brahmachari expressed that he would like to hear from other board members. Mr. Garber went back to the plot plan and Mr. Brahmachari illustrated that the existing front face of the building is at 55 and the steps are making it closer to the set-back. Mr. Garber stated that the 62-foot mark was at the top landing and asked Mr. Flatley if that was correct. Mr. Flatley responded yes and explained that it is 57 to the sun portion of the front deck and 62 to the covered porch. The plan shows 5 steps would be another 5 feet closer to the street in the non-conformance and his best guess would be 52 feet. The existing house is 55.8 feet.

There was some discussion if this would need a variance and Mr. White explained that since this is a non-conforming structure for front set back then it's a special permit and that the stairs are just exacerbating the existing

non-conforming. Mr. White stated that some towns have zoning by-laws where stairs are exempt from the set-back and that we don't have anything expressly written in the by-laws regarding the stairs being counted in the set-back.

Mr. Garber opened the discussion to the other board members.

Mr. Mehta explained that he looked at the plans and that it's a general upgrade. He agrees with the homeowner that the new porch would improve the aesthetics of the house. He also expressed that something like steps should be a judgment call for the setback. He said it was a straightforward minor approval of the house. Mr. Mehta read the by-laws, and everything complies.

Mr. Wallenstein referred back to the site plan and discussed the issue of the steps making it more non-conforming. He stated that it's minor and doesn't see this as being more detrimental and that it is an approval to the area.

Mr. Garber brought up the plans for the rear deck and asked if anybody had any questions. He also opened it up to the public for questions. There was no response. He noted that he and none of the board members don't have any objections. He asked the applicant if they would like to close their case for a vote.

**Motion:**

Chair made a motion to close Case 1894, 42 Massapoag Ave. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 4-0-0 (Garber, Brahmachari, Wallenstein, Mehta).

Chair made a motion to Vote to Approve Case 1894 with Standard Conditions. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Brahmachari, Wallenstein).

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

Mr. White clarified 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.

**8:09PM - Case 1895 – 4 Beach Road**

Present for the applicant: Residents Paul Hayes and Vicki Blanchard, Joel Fishman attorney to the applicant, a Contractor Sara Johnston, Architect and Christine Meanie, Site Design Professionals and Bill Keefe, Builder.

Mr. Garber read the Legal Ad that was published in the "Times Advocate" on 2/16 & 2/23/22, into the record.

Mr. Garber read correspondence from Josh Philibert; Conservation Administrator dated February 10, 2021.

*"I have reviewed this application. The proposed project, which is located within the 100-foot buffer of the Inland Bank and Land Under Water Bodies resource areas associated with LakeMassapoag, has already been before the conservation commission through the applicants' filing of a Notice of Intent. This project has received Orders of Conditions from the commission, and compliance with these orders will be sufficient to protect the wetland resources and related public interests. I have no objection to the work proposed under case #1895."*

Mr. Garber read correspondence from the Kevin Davis; Agent of Board of Health dated February 24, 2022.

*"I have reviewed the ZBA Application for Hearing to replace the existing deck with a four-season room at 4 Beach 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."*

Attorney Fishman introduced everybody that was present on behalf of the applicant, and he presented the Site Plan. Attorney Fishman asked Christine Meanie, Engineer to explain the site plan to the board. Ms. Meanie explained

that the applicant's current home has a deck on the back, and they are proposing to convert the left side into a four-season room. The current deck is supported by 10' diameter concrete sonotubes and they will be replaced in-kind and one additional sonotube will be added where the addition meets the left rear corner of the house. The addition will be exactly on the existing footprint of the deck. Currently the deck is 21.8 feet from the left property line and 54.5 feet to the rear line which is also the high-water line of the Massapoag Lake. She explained that the entire property is developed and area behind the house is lawn and that they are proposing erosion control just to prevent any siltation from getting into the lake. They are providing roof recharge for the addition and there will be little to no disturbance to the ground. No increase setback to the side yard which is currently non-conforming. The work will be more than 50 feet away from the wetland.

Attorney Fishman asked if anybody had any questions.

Mr. Wallenstein wanted to confirm that they are not increasing the degree of non- conformity. Ms. Meanie stated that all set-backs will remain the same.

Mr. Mehta stated that the application documents were complete and they are a good set of documents. He also stated that design professional's explanation of the plan is good and that this is simply a case of enclosing an existing deck. He has no issues.

Mr. Fishman presented the floor plans and the elevations and asked Ms. Johnston to discuss. Ms. Johnston explained that the plan is pretty straightforward. Currently there are two symmetrical decks with stairs in between them down to grade and they are proposing to enclose the deck on the righthand site. Ms. Johnson explained that in the process of doing this they will be removing an 8' atrium door that is between the dining room and the sunroom, to ensure that it doesn't look any kind of additional bedrooms, etc.

Mr. Garber asked what the intent of the four-season porch was, is it for more space or an eating area. Ms. Johnston stated it started out as being a screened porch but seeing what financially was going into it, they decided to enclose it and be able to use it year- round.

Mr. Brahmachari asked if there were any changes to the rest of the house relative to the floorplan. Ms. Johnston answered that the floorplan is remaining the same.

No other questions from the board. Chair opened it to the public for questions or comments.

Mr. Garber asked if they want to close the case. Attorney Fishman answered yes.

**Motion:**

Chair made a motion to close Case 1894 – 4 Beach Road with Standard Conditions. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Brahmachari, Wallenstein, Mehta).

Chair made a motion to Vote to Approve close Case 1894 – 4 Beach Road with Standard Conditions. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Brahmachari, Mehta).

Attorney Fishman will write the decision and email to the board.

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

**Minutes:**

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

The meeting adjourned 8:32pm

Respectfully submitted