

SHARON ZONING BOARD OF APPEALS
MINUTES OF WEDNESDAY, April 27, 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.

A virtual meeting of the Sharon Zoning Board of Appeals was held on Wednesday, April 27, 2022, at 7:00 P.M. The following members were present as established by roll call: Joe Garber, Chair, David Young, Abe Brahmachari, Arnold Wallenstein, and Hemant Mehta. Also present from the town: Kris White, Building Inspector. Mr. Garber, Chair, read Covid19 protocols per the Governor of MA and procedural ground rules.

Mr. Garber, Chair called the meeting to order at 7:02 PM.

Case 1899 - 28 Walnut (continued from 4/13/22)

Present for the applicant: Resident Bryan Rawding, Larry VanLeer, Contractor

Mr. Garber re-read the Legal Ad that was published for the original hearing on April 13, 2022.

Mr. VanLeer presented the revised rendering which shows the view from Edgewood and the revised plot plan which showing that they made the adjustment making on the side lot 23'. It also shows the footing and no overhang and changed to stone patio staying within the 10', approximately 10'5" to give them a little wiggle room. It also showed location of the new septic tank which is 10" from the footings.

Mr. Garber noted that Mr. VanLeer addressed all of the concerns from the hearing on April 13, 2022.

Mr. Brahmachari stated that he was satisfied with the rendering and revised plot plan. He also brought up his concerns regarding the size of the addition, that it was a large addition. Mr. Brahmachari thought it was beneficial to have a discussion with regards to the size compared to other houses in the neighborhood and have the board members weigh in.

Mr. Young was satisfied with the adjustments on the drawings and didn't have any concerns with the overall size of the addition.

Mr. Mehta stated that he reviewed the drawing and that he was familiar with the area and agreed that it was a large addition. However, he did not believe that it creates a negative impact aesthetically or environmentally or any detrimental impact on the neighborhood.

Mr. Wallenstein discussed that the addition is pretty close to doubling the size of the structure. He asked the board members if it was usual to approve things that would double the non-conforming use in its area. Mr. Garber explained that they have approved some large projects in the past. You have to ask if it's creating a detriment to the neighborhood or is it increasing the non-conformity. He stated that he understands Mr. Wallenstein's point with regard to the size, but he believes it doesn't create a detriment to the neighborhood and that it blends in nicely. Mr. Wallenstein suggested that the board should think about setting precedence to a project this large. He also agreed that this project will not be a detriment to the neighborhood.

Mr. Brahmachari stated that in terms of the non-conformity that in this case the non-conformity is the lot itself. He agrees that it is a nicely designed addition, and it is not detrimental to the neighborhood but it's worth making a note that it is substantial. Mr. Garber stated that the rendering gave you a better perspective.

Mr. Garber opened the meeting up to neighbors and abutters. There weren't any comments. Mr. Garber asked the applicant if they would like to close the hearing and they answered, yes.

Chair made a motion to close Case 1899 – 28 Walnut Street. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 5-0-0 (Garber, Brahmachari, Young, Wallenstein, Mehta).

Motion:

Chair made a motion to Vote to Approve Case 1899 with Standard Conditions. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Brahmachari, Young,).

Case 1900 - 20 Edgehill Road

Present for the applicant: Resident Michael Gallagher

Mr. Garber read the Legal Ad that was published in the “Times Advocate” on 04/06 & 04/13/22, into the record.

Mr. Garber read, into the record, a memorandum from Kevin Davis, Agent of the Board of Health dated April 1, 2022.

“I have reviewed the ZBA Application for Hearing to construct an addition at 20 Edge Hill 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, a letter from Josh Philibert, Conservation Administrator, dated March 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 #1900.”

Mr. Gallagher presented his plot plan and explained his project. They are looking to add a one car garage with a bedroom above it, for his growing family. They want to stay as far away from neighbors as possible, but it is difficult to do with the circumstances on the existing lot and given the setbacks and this is why he is asking for a variance.

Mr. Garber asked if the garage addition was 17’6” off of the property line, indicated with the hash lines on the plot plan. Mr. Garber pulled up the plans and Mr. Gallagher explained the drawings showing the addition and the existing structure. Mr. Garber asked if it was a 3-bedroom house and if it would remain a 3-bedroom. Mr. Gallagher stated yes that it would remain a 3-bedroom. Mr. Garber asked what was going to be eliminated and Mr. Gallagher stated that they will be removing a wall on the first floor between the living room and the back bedroom. Mr. Gallagher noted that the demolition isn’t shown of the drawing and Mr. Garber informed him that any changes that they are going to make, we need to have paperwork on. Mr. Garber stated that we wouldn’t be able to close the case tonight until we see the plans showing that the wall is being removed. Mr. Brahmachari confirmed that is the case and has some other concerns.

Mr. Brahmachari shared his concerns. He reiterated that Mr. Gallagher would need to show the demolition of the wall on the plans. He also wanted to ask Mr. White, Building Inspector his opinion. Considering that the structure is located in a Rural 1 District and the required site setback is 30 and the property has a large area in the back, Mr. Brahmachari asked why they would need a variance and why aren’t you building in the back. In this case you would have to prove your hardship to change the setback to 17’6”. Mr. Gallagher stated that the septic is in the back of the house, and he would have to move the septic system and that would be a financial hardship. Mr. Brahmachari noted that he can’t recall a precedence and couldn’t recall if they have approved a variance with a financial hardship. Mr. Garber stated that it hasn’t been done for the past 7-8 years that he has been on the board.

Mr. Gallagher asked a question regarding the financial hardship. He asked, if he can’t sell my house and buy a house this size to stay in the community because I can’t afford it, although my kids go to school here, I am involved in the community, this isn’t considered a financial hardship? Considering we are only looking at physical barriers and that he was just trying to understand it. Mr. Garber stated that a variance with that much relief hasn’t been done in the past for off the side setback. He also asked where the septic system was located with regards to the back of the house. Mr. Gallagher explained where it was and stated if he went back, he’d have to move everything. Mr. Garber opened it up to the board members.

Mr. Young stated Mr. Brahmachari expressed his concerns and that it's the precedence of future opportunity of liability that concerns him, an encroachment of 12.5'.

Mr. Gallagher stated that in his research of the Rural 1 district and the setbacks, if he was to detach the garage from the house and move it 10' away, he would only have to be 10' off of the side, on the same block and I would be conforming. But because I want to attach it to the house it becomes 30'. He is trying to understand. He also stated that he walks out of his house every day, and he sees Avalon apartments that weren't there when he bought his house. He just wants to add a one car garage and a bedroom and it's frustrating. Mr. Garber expressed that he understands and that the board does their best to uphold the zoning bylaws. He also stated that a variance is a high obstacle to achieve. Mr. Garber opened it up to the other board members and asked Mr. White to give some clarification.

Mr. Mehta stated that he concurred with the concerns and that the 17'5" of setback does create an aesthetic impact in the rural neighborhood and he understands Mr. Gallagher's issues and concerns, but we are here to look at this from Zoning Board Bylaws and other criteria perspectives. Mr. Mehta referred back to a prior case and that the addition would fit better behind the house, and it wouldn't have any detrimental impact. But looking at the variance guidelines he is hesitant to say yes until there is more discussion.

Mr. Wallenstein referred to Section 6222 of the Zoning Bylaw which is reflected in the State Law states that you can only give a variance if the hardship relates to the soil conditions, shape of topography of the land especially affecting your lot but not affecting the rest of the district. Mr. Wallenstein stated that Mr. Gallagher hasn't met the criteria for a variance and 12'5" is very substantial and looking back at ZBA cases, he has never seen the ZBA give a variance that big.

Mr. Gallagher expressed his frustration. Mr. Garber asked if there is a reason why it needs to be 21' wide for a bedroom addition. Mr. Gallagher stated so that they can get a car in there and that there is a hallway with a stairwell. Mr. Garber asked if he was to eliminate the garage and just do a bedroom addition would he be able to fit it within the side setback. Mr. Garber noted that it will be tough to get the variance and he is just trying to work with him. Mr. Garber asked Mr. White for comment.

Mr. White stated that the threshold for a variance is much higher than a Special Permit. You have to meet 3 criteria. It has to relate to the soil conditions or shape of topography, substantial hardship and not detriment to the public good.

Mr. Gallagher asked what the intent of Rural 1 is. Mr. Wallenstein shared the bylaw on his screen and explained the bylaw and the setback, etc. and based on the bylaw he hasn't met the criteria. Mr. Garber pulled up the district use regulations to show the definition for Rural 1.

Mr. Garber asked Mr. Gallagher if he would be willing to come back with something that they can pass with just the bedroom. Mr. Gallagher's builder asked if they were to overlap the buildings enough so that they would be in that 30' of the side lot and come back and show it on a plot plan and present it to the board would they be looking for a Special Permit and not a Variance. Mr. Garber stated that if they met the setback requirement, he would have a better chance having a Special Permit passing. Mr. Garber asked that they show the septic system on the new plot plan.

The applicant asked to keep the case open and if they can be put on the next meeting which is on May 11, 2022. Mr. Garber asked Ms. Katapodis if they can be added to the agenda and that she will send a continuance form.

Mr. Gallagher's builder asked if the new drawings need to be stamped, etc. Mr. White stated that whatever you bring to the ZBA would have to be stamped by a surveyor, but we don't necessarily need structural plans at that point. A basic rendering is good for the discussion. Mr. White recommended that if he goes back to the surveyor make sure that it shows the front setback and a right- side setback.

Motion:

Chair made a motion to continue Case 1900 – 20 Edgehill Road to May 11, 2022. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 5-0-0 (Garber, Brahmachari, Young, Wallenstein, Mehta).

Case 1901 – 1 Heather Way

Present for the applicant: Bala Parameshwaran

Mr. Garber read the Legal Ad that was published in the "Times Advocate" on 04/06 & 04/13/22, into the record.

Mr. Garber read, into the record, a memorandum from Kevin Davis, Agent of the Board of Health dated April 1, 2022.

"I have reviewed the ZBA Application for Hearing to construct an addition at 1 Heather Way. 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 28, 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 #1901."

Mr. Parameswaran presented his plans beginning with the plot plan. He explained the section that shows the proposed addition. They want to demolish the deck and build an addition basement area, living first level area and an adjoining deck. The plot plan shows the distance from the existing septic tank and leaching field and property lines. He presented the building plans which showed the elevation plan showing the demolition and the proposed structure.

Mr. Garber stated that it looks like they are moving further away from the side setback and that he is satisfied and opened it to the board.

Mr. Brahmachari stated that the presentation was clean and that he has no comments, and that he is improving the setback. Mr. Brahmachari did comment for information purposes, that it being a corner lot, both front and right are front.

Mr. Young agreed that it's all within the setbacks and he has no questions.

Mr. Mehta stated it is straightforward and he had no comments.

Mr. Wallenstein asked to look at the plot plan and asked about the proposed deck and asked if this was non-conforming use. Mr. Parameswaran stated it was a non-conforming lot. Mr. Wallenstein asked if the house size would be increased about a third and addressed the board about the increase in the non-conformity and referred back to an earlier case. But this is clearly not detrimental to the neighborhood, and he doesn't have any other comments.

Mr. Garber opened the meeting to the public. There were no comments and asked Mr. Parameswaran if he wanted to close his case.

Motion:

Chair made a motion to close Case 1901 – 1 Heather Way. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 5-0-0 (Garber, Brahmachari, Young, Mehta, Wallenstein).

Motion:

Chair made a motion to Vote to Approve Case 1901 with Standard Conditions. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Brahmachari, Young.).

Mr. Parameswaran asked what the next steps were, and Mr. White explained the process.

MINUTES:

March 23, 2022

Motion:

Chair made a motion to approve minutes from March 23, 2022. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 5-0-0 (Garber, Brahmachari, Mehta, Wallenstein, Young).

The meeting adjourned 8:30 pm

Respectfully submitted