

SHARON ZONING BOARD OF APPEALS MINUTES OF January 11, 2017

A regular meeting of the Sharon Zoning Board of Appeals was held on Wednesday, January 11, 2017 at 7:00 P.M. in the Second Floor conference room at the Sharon Community Center, 219 Massapoag Avenue. The following members were present: John Lee, Seth Ruskin, Joe Garber, Abe Brahmachari, Barry Barth, and Steve Cohen.

7:03 P.M. Brickstone, Review of Concept Plans, Gouldston & Storrs, PC

Mr. Lee explained that Brickstone is a review of concept plan for a parcel of land located on Mountain Street. The Zoning Board of Appeals ("ZBA") had a case years ago for a 40B Comprehensive Permit, affordable housing development, and it was appealed by neighbors and the developer (Brickstone Sharon, LLC). The ZBA did grant the permit with conditions.

Jeff Spagat of Brickstone Sharon, LLC, the developer, explained that the land was purchased in 2006 and this evening is about presenting a concept plan for a revised 40B because they would like input from the ZBA.

Mr. Lee stated that the permit granted by the ZBA was for 120 units of housing and that it's under continued litigation with Town Counsel which is extended every six months.

Mr. Spagat explained that the development was moved to the southern part of the land and will have an approximate 45 acre footprint while remaining on 81 acres. The balance of the land, approximately 250 acres, would be transferred to the Town of Sharon.

Mr. Lee stated that the ZBA will look at density and the number of bedrooms. He also asked that a copy of the plans be placed at the Sharon Library for viewing as part of the public hearing process.

Mr. Lee stated that a few areas of concern are traffic, density, and waste water and that there will be a peer review.

Mr. Greg Meister, the Conservation Agent, expressed concern about the management of the land. It was stated that 30 acres would be for municipal use and the balance of 220 acres would be under conservation.

Mr. Gelerman of Gelerman and Cabral, LLC, Town Counsel, explained that the case would be treated as a new hearing to amend a previous permit (modify an

existing 40B) due to changes made to the plan and that notice to abutters would be treated the same.

Mr. Eric Dias, a Professional Engineer, with Strong Point Engineering Solutions explained that Form A's were approved and that are discussions with Natural Heritage about fragmentation and segmentation. He also stated that he expects new plans will be presented about the end of April.

Kyla Bennett of New England Peer expressed the following: would have liked notice of this type of meeting, would like to see the Development Agreement (Board of Selectmen have copies), questioned why this project is the same as original, and concern over the water quality.

Mr. Gelerman explained that the Board of Selectman is treating this project as a continuation since it is on the same land and is a 40B project.

Mr. Dias explained that a ground water discharge permit would be obtained from the Mass DEP and that the waste water treatment plant has many checks and balances.

Ivars Apse of Coach Lane asked if waste water treatment plants fail. It was stated that a plant as a whole does not fail but a part may fail and mechanisms in place identify and rectify these issues.

Kathy Farrell of Bay Road stated that the plans from the 2015 Agreement are different. Mr. Gelerman stated that there's an amendment waiting for execution.

7:37 P.M. Four Daughters Compassionate Care Inc, 1200 General Edwards Highway, Case No. 1797, Continued Hearing:

Mr. Lee read a letter from the Chief of Police, T. Kaufman, dated January 7, 2017, and a letter from the Board of Health, Beverly Anderson, dated January 10, 2017.

Mr. Lee acknowledged that the BOH issued Permit No. 9934 for a septic plan.

Mr. Lee acknowledged receipt of two letters from Peter O'Cain, Town Engineer, dated December 1, 2016, and December 23, 2016.

Mr. Brahmachari expressed general concern about the marijuana dispensary.

Mr. Gelerman explained that use as a registered marijuana dispensary is not an issue subject to the ZBA's discretion. It was determined to be an allowed use in this district at the Town Meeting and the ZBA is limited to the bylaws. Also, it is beyond the ZBA authority to determine if the dispensary is detrimental.

The Special Permit is for the ZBA to consider parking, traffic, setbacks, and other such things.

Mr. Gelerman explained that the current bylaw only allows for a medical dispensary and not for sale of recreational marijuana. Town Meeting would need to vote on recreational marijuana in the future.

Mr. Gelerman also mentioned a condition that could be imposed under section 3650B.

Mr. Ruskin expressed concern on the use of the dispensary and that the situation is too new to determine if it is detrimental.

In response to Mr. Lee's question on how limited the board is, Mr. Gelerman explained that the board cannot say no to a special permit because they don't approve of the use of marijuana.

Mr. Fishman, attorney for the applicant, read into record the Medical Marijuana Products Waste Destruction Plan, which could be a condition if the board voted in favor.

Mr. Charles Smith, a licensing and compliance consultant in the cannabis space, hired by the applicant discussed compliance issues. Mr. Smith made the following points: the process is highly regulated by Department of Public Health, a software tracks from seed to final product via a unique bar code, a chain of custody is maintained, a proposed amendment by the DPH is that cuttings may be used after the seeds become plants, compliance deals with security system breaches, a secondary system records everything, compliance is in regular contact with a compliance officer from DPH, a person with a medical marijuana card is only allowed within the facility, and an electronic tracking system will track purchases along with the state electronic system which operates in real time.

It was stated that the edible products are packaged to be child resistant.

The following points were made about dosage/prescription: a physician recommends that a patient would benefit from the use of medical cannabis, under MA law a physician does not give recommendation for specific type/form/dosage, a physician and dispensary will help educate first time use patient, a physician enters into the state system an amount of 10 oz. or less per 60 days for a patient, for edible products an equation is used to determine the amount of THC in the product so that it is equivalent to its botanical form.

It was stated that a condition of approval could be that the applicant accepts the Chief of Police's recommendations. An occupancy permit would be given when Chief of Police signs off on security plans which would be after the building is up and running.

It was stated that the hours of operation could be a condition of approval.

Mr. Fishman submitted a letter of support to the applicant from the Board of Selectmen.

Mr. Bill Buckley of Bay Colony Group discussed how he would address concerns stated in the letter dated December 23, 2016, from the Town Engineer, Peter O'Cain. Various points in the letter would be conditions to approval.

Resident, Mr. Langley of Arboro Drive shared a personal story in support of medical marijuana use.

Mr. Rosen, Chief Operating Officer of Four Daughters Compassionate Care, discussed the availability of marijuana type drugs available via pharmacies.

It was stated that the applicant, a non-profit, would pay property taxes, even though it is not required.

It was stated that a registered marijuana dispensary is not authorized to sell recreational marijuana.

Mr. Lee asked that the hearing not close and that Town Counsel and Mr. Fishman begin a draft Decision.

It was stated that a stronger letter from the Chief of Police is needed and that hours of operation should be further discussed.

The applicant asked to continue the hearing on January 25, 2017.

8:53 Asif Khan, 6 Blair Circle, Case No. 1796, New Hearing

Mr. John Lee read legal notice, a letter from Greg Meister, Conservation Administrator, and a letter from Jim Andrews, Health Agent for Engineering.

Mr. Khan explained that the project is to build an extension at top of existing garage to make habitable space for his parents.

Mr. Lee explained that the ZBA allows for truly in-law apartment but not making a 2 family home. The ZBA looks at how people have access to the in-law apartment.

Mr. Khan explained that a door would be opened from the kitchen and the kitchen would be renovated. The in-law apartment would be on the first floor (as the garage is in the basement) and access from the kitchen in the main house would be the only entryway. A third garage would be added also. The garage would be extended 8 feet outward, 12 feet back, and 5 feet in the front.

Mr. Lee stated that standard conditions would apply in addition the current 4 bedroom home would remain a 4 bedroom home and that the only access would be through the kitchen.

Mr. Khan explained that the home is in a cluster subdivision so that the 30 foot rule does not apply.

Mr. Lee stated that zoning requirement is 30 feet in this district but the plans show 21 feet and the ZBA needs to verify that this is in a cluster development.

Applicant asked to continue the hearing on January 25, 2017.

Other Business:

Mr. Garber moved to approve the minutes of December 14, 2016. Mr. Brahmachari seconded the motion. The board voted 4-0-0 to approve it.

It was moved, seconded, and voted to adjourn. The meeting adjourned at 9:25pm.

Respectfully submitted,

Approved January 25, 2017