

SHARON ZONING BOARD OF APPEALS
MINUTES OF WEDNESDAY, May 11, 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, May 11, 2022, at 7:00 P.M. The following members were present as established by roll call: Joe Garber, Chair, David Young and Arnold Wallenstein.

Mr. Garber, Chair called the meeting to order at 7:02 PM. Mr. Garber, Chair, read Covid19 protocols per the Governor of MA and procedural ground rules.

Case 1900 - 20 Edge Hill Road (continued from 4/27/22)

Present for the applicant: Resident Michael Gallagher

Mr. Garber asked Mr. Gallagher if he had the new drawings to present. Mr. Gallagher stated that the new plans weren't ready yet because they were trying to come up with a new design. He stated that they have eliminated the garage. Mr. Garber asked if he would like another continuance and Mr. Gallagher expressed that he would need to continue the case. Ms. Katapodis will email him a Continuance Form to be filled out and emailed back. The case will be continued to June 8, 2022.

Motion:

Chair made a motion to continue Case 1900 – 20 Edgehill Road to June 8, 2022. Mr. Young seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Young, Wallenstein).

Case 1902 - 374 Old Post Road

Present for the applicant: Attorney Robert Shelmerdine, Eli Florence & Kayla Florence – Owners of Kayden Realty, LLC (applicant), Joe Curran and Jen Mirabella, advisors for the facility and Attorney Matt Gaines.

Mr. Shelmerdine explained that the application is for a mental health facility and that they will expand on the details of exactly what is being proposed as we get further into the presentation. He presented a top-down view of 374 Old Post Road, which shows the current structure, Kingdom Hall the Jehovah Witnesses church. He explained the plot shares a boundary with I95 and that there is a residence to the south. Mr. Shelmerdine stated it is a 22,400 square foot lot and presented a GIS outline of the property. The GIS shows the boundaries of any wetlands, buffer zones or town wells, this GIS shows that there are no wetlands or town wells on the property. The building was built in 1966 and the building permit for that it was used for religious purposes and it's the original use and original owner. In 1983 there was an auditorium added and there is a plan of an extended parking lot. Mr. Shelmerdine noted that the Certificates of Inspection filed with the town states that the capacity of the building 340 and that the memo from the Board of Health states that the current capacity of the existing septic system is 1,610 gallons per day. It's an onsite septic system. The letter from the Conservation Commission states that there are no wetlands on the property.

Mr. Garber read the Legal Ad that was published in the "Times Advocate" on 04/20/22 & 04/27/22, into the record.

Mr. Garber read, into the record, a memorandum from Kevin Davis, Agent of the Board of Health dated April 29, 2022.

"I have reviewed the ZBA Application for Hearing to construct a Medical Treatment or Health Services Facility. On January 20, 2002, this department determined that the maximum allowable septic load is 1,610 gallons per day (GPD) based on existing uses. However, the determination was founded on the existing structure's usage and did not guarantee the viability

or functionality of the current on-site subsurface septic system.

Therefore, as the agent of the Board of Health, I hereby request that the Zoning Board of Appeals (ZBA) require as a condition of approval that, prior to construction, a thorough evaluation of the existing on-site septic system is performed based on the final proposed use and septic load. After which, a report will be submitted to be approved by the Board of Health or its agent. Should such a report consider the existing subsurface infrastructure inadequate to service the proposed use, a new subsurface septic system shall be constructed per 310 CMR 15.000 (State Code – Title 5) and Chapter 300 Article 7 (Local Health Regulation) under maximum feasible compliance.”

Mr. Garber read, into the record, a letter from Josh Philibert, Conservation Administrator, dated April 6, 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 #1902.”

Mr. Shelmerdine stated for the record that they have reviewed the letter from Kevin Davis and his client accepts the terms as conditions if the board deems that to be part of the record and decision.

Mr. Shelmerdine presented the floorplan of the existing space showing the facility interior and stated that there are no plans to expand or contract the footprint or build up. It will be a complete interior rehabilitation. He explained that the large rooms will be group rooms, there are offices and conference rooms and there is a small kitchen to serve the patients and people that attend. It has 10 seats, it's not intended to be a large kitchen. Lavatories and waiting room are in the reception area. Mr. Shelmerdine turned the presentation over to Mr. Curran.

Mr. Curran introduced himself and stated that he is one of the partners for Rockland Recovery Behavioral Health and that he is also the Executive Director of a substance abuse center operated in Weymouth, MA for the past two years. He stated that he has been able to help a lot of people but have several had phone calls from people that suffer with mental health issues, such as anxiety, depression, ADHD, etc. and that they haven't been able to help them up until now. This will be an outpatient service, not residential or inpatient services. Clients can come Monday – Friday from 9am -12pm or 9am-3pm depending on the level of care that they are in. He explained that the patients will get treated with individual therapy, group therapy, family sessions and case management. Mr. Curran noted that there are a lot of people that suffer from mental health issues, and this is an area that they want to expand in. Mr. Curran turned the presentation over to Ms. Mirabella, who will be the clinical director of the facility.

Ms. Mirabella introduced herself and explained that she is a licensed independent clinical social worker. She explained that the program that they will be running at the facility would be addressing individuals that fall into several different categories, such as, mood disorders, anxiety disorders and traumatic stress experiences. For people who have had some interruption in their life trajectory, and this will be a place for people to take a step back and to put some intensive comprehensive time into their emotional and mental well-being. She also explained how the stress of the pandemic has uncovered situations that were already there for people and have also seen a disruption in providing services to help them. It's hard to find providers, there are long wait lists, and this is the need that they are trying to fill with this facility.

Mr. Florence touched upon the benefits to the Town. The facility would add jobs and it would add approximately \$25,000 in yearly real estate taxes and offer service organization agreements with hospitals and first responders in the area. He also reiterated that all the work will be on the interior and that the exterior will remain the same. There will be no additional cost to the Town. He turned the meeting back over to Mr. Shelmerdine.

Mr. Shelmerdine explained that the building is in Zoning District is Residential District R-1. He explained that there is an ability to have a community use in a R-1 District as long as you obtain a Special Permit and he believes that it fits into one of the categories Under 2315 (b)(1) you can have a playground, a hospital, a sanatorium, or a cemetery. They are focusing on the category sanatorium based on the definition in the Merriam-Webster dictionary. He stated that is they applied for a Special Permit under 2315 (b)(1) and explained that there are restrictions under 2316 which coupled restrictions with the uses under 2314 & 2315 and those restrictions made no sense in many regards. They are closely related when you have a residence and want to have an occupation out of your home. He read through the restrictions to highlight how they do not apply to this Special Permit. One of the last measures of relief that they have asked for a finding that the proposed use is not substantially more detrimental to the neighborhood than the existing. They aren't changing the parking lot and they won't disturb the neighborhood. As a result, Mr. Shelmerdine explained that they applied for a finding that these restriction in 2316 don't apply to them.

Mr. Shelmerdine also stated that they applied for a Special Permit under the bylaw for the Groundwater Resource Protection district. Based on the septic analysis on the proposed use, it will generate 1,525 GPD which is under the 1,610 GPD which is under the existing and historic capacity. Kevin Davis from Board of Health, stated in this letter, that an onsite evaluation of the existing septic will have to be done as one of the conditions.

Mr. Shelmerdine discussed the parking space requirements. The proposed office space is 894 sq. ft., which would require 22 parking spaces. They submitted an as-built plan which shows 32 parking spaces provided on-site. Based on this they believe that they comply with the requirements. He also talked about a sign that they would like to use, and it is in the same spot as the existing sign. They want to replace the existing sign with a new one.

Mr. Shelmerdine concluded the presentation and opened the meeting up to the board for questions.

Mr. Garber confirmed that they are applying for three Special Permits and one finding.

Mr. Young asked what the hours of operation will be. Mr. Curran stated that they will be open 8am-4pm but the hours of the programming will be 9am – 3pm. Mr. Young asked if the sign will be lit, and Mr. Curran stated that it doesn't have to be lit and Mr. Florence explained that they haven't gotten that far yet and that they may have a light on the ground facing toward the sign. Mr. Young inquired as to what the use of the 80-chair conference room will be for. Mr. Curran stated that there will be two group rooms that will hold classes. Ms. Mirabella said that it is highly unlikely that they will have 80 people, but it will be nice to have the room for group sessions such as yoga, etc. Mr. Young also expressed that he was surprised that only 24 parking spaces are required for that number of seats.

Mr. Wallenstein confirmed that they were applying under the old bylaw and questioned the category of sanatorium. He also asked if this would be treating people for drugs or dementia. Ms. Mirabella clarified that they are not treating anybody for substance abuse or anybody with dementia. Mr. Wallenstein noted that they may have to work a little bit to show that the use is permitted by the current bylaw and make sure they categorize it properly. He asked who owns the facility. Mr. Florence stated that Kayden Realty, LLC owns it. Mr. Wallenstein asked why a real estate company would own a behavioral health facility. Mr. Florence explained that he is supporting his daughter and nephew.

Mr. Wallenstein made a short list of conditions to be discussed. The first was how old the septic system is, and Mr. Shelmerdine stated that the records aren't clear and that is why they are doing a Title 5 evaluation. Mr. Wallenstein suggested that a condition be written for the capacity not to exceed a certain number of people, a condition regarding the operating hours, one regarding onsite parking capacity and that the applicant provides a better description as to how the facility fits within the current bylaw. Mr. Garber stated that we can set the operating hours tonight as a condition and if you have to change them in the future, they can file for a revision. Mr. Wallenstein also asked if there would be any medical treatment. Mr. Curran stated that no there will not be any medical treatment.

Mr. Florence responded that there was a Title 5 done that passed and the capacity of the building when it was originally permitted was 320 for 50 years, which is in excess of three times of what they would need. Mr. Shelmerdine stated that there are 4 Certificates of Inspections which say that the capacity of the structure is 320 seats and that they aren't even close to that.

Mr. Shelmerdine offered his services to write the first draft of the decision. Mr. Garber stated that he can do the first draft and he asked Kayden Realty what the full capacity would be. Mr. Florence stated that the maximum would be approximately 90. Mr. Garber stated that we can add that as a condition. Mr. Garber suggested a buffer and they decided to make the capacity 95. Mr. Florence mentioned that the operating hours are a best guess and they made need to review in a few months. Mr. Garber stated that they can add that as a condition with a review period. Mr. Wallenstein asked if they would be having any evening/night classes. Mr. Florence stated that they don't have any plans currently for night classes but that could change at a later date.

Mr. Gaines asked if the 8am-4pm will cover the staff's hours. Mr. Florence noted that they will see how it works out and can review it at a later date. Mr. Shelmerdine noted that hours of operation are usually when you are open to the public. Mr. Garber stated that the condition can be that the "operating hours" are from 8am – 4pm. There will also be a condition that parking will be restricted to onsite parking only, no overflow on the street.

Mr. Garber confirmed that Mr. Shelmerdine will prepare the draft decision and then he opened the meeting to the public. There weren't any comments.

Mr. Garber asked the applicant if they would like to close their hearing and Mr. Shelmerdine stated that unless anybody has any objections, yes, they want to close the hearing.

Motion:

Chair made a motion to close Case 1902 – 374 Old Post Road. Mr. Young seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Young, Wallenstein).

Motion:

Chair made a motion to vote to grant a uses Special Permit pursuant to Section 2315(b)(1) for Medical Treatment and/or Health Services Facility. Mr. Young seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Young, Wallenstein).

Chair made a motion to vote to grant Special Permit pursuant to Groundwater Resource Protection Section 4540 for generation of greater than 6 GPD, per 1000 safe Mr. Young seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Young, Wallenstein).

Chair made a motion to vote to grant Special Permit for the Alternation, Reconstruction, Extension or Structural change of the Structure or Use pursuant to Section 6412b. Mr. Young seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Young, Wallenstein).

Chair made a motion to vote to grant a Finding relative to Section 2316 Restrictions that certain specific Restrictions thereto do not apply to the used proposed. Mr. Young seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Young, Wallenstein).

MINUTES:

April 13, 2022

Motion:

Chair made a motion to approve minutes from April 13, 2022. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Wallenstein, Young).

MINUTES:

April 27, 2022

Motion:

Chair made a motion to approve minutes from April 27, 2022. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Wallenstein, Young).

The meeting adjourned 8:30 pm

Respectfully submitted