

SHARON ZONING BOARD OF APPEALS
MINUTES OF WEDNESDAY, August 24, 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, August 24, 2022, at 7:00 P.M. The following members were present as established by roll call: Joe Garber, Chair, Abe Brahmachari, David Young and Arnold Wallenstein.

Mr. Garber, Chair called the meeting to order at 7:01 PM. Mr. Garber, Chair, read Covid19 protocols per the Governor of MA and procedural ground rules.

Case 1900 - 20 Edge Hill Road (continued from 7/27/22)

Present for the applicant: Resident Michael Gallagher and his builder, Matt

Matt explained that they want to reduce the size of the addition so that they aren't near the setbacks and eliminate the bedroom downstairs that was originally proposed and add gambrel the roof to add some space in the master bedroom and be able to create a new bedroom in the back left hand side of the structure.

Mr. Garber noted that according to the new plans they are within the limits of the setback. Matt stated that they could go a little bigger if they wanted but they've pared it down to make sure there weren't any issues with the setback.

Mr. Garber stated that he was highly satisfied with the new proposed plans and asked the board. Mr. Brahmachari and Mr. Young both agreed that they were satisfied as well.

Mr. Wallenstein asked to be reminded what the setbacks were and wanted to confirm the measurements on the plans. Matt explained that they aren't going any closer to the street. It was confirmed that it's the same setback.

Mr. Garber asked if any neighbors or abutters had any comments. There weren't any.

Mr. Garber asked Mr. Gallagher if he would like to close their case Mr. Gallagher expressed that he would. Mr. Garber explained the next steps to Mr. Gallagher.

Motion:

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

Motion:

Chair made a motion to approve the Special Permit for Case 1900 – 20 Edgehill Road. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Young, Brahmachari).

Case 1905 - 700 South Main Street – Dollar Tree

Present for the applicant: Adam Abelha and Dorena Costa - Signature Signs

Mr. Garber read the legal ad into the record.

Mr. Abelha presented the plans and explained that Dollar Tree is seeking a sign that is 71 square feet, which exceeds the allowance of 50 square feet. They feel that the sign is in proportion with the frontage of the building and will look appropriate with the building size which is 70' long. The building is set back greater than 100' from the roadway. They feel a scan be seen better from the roadway with no detriment to the drivers.

Mr. Garber stated that he doesn't have any questions and he understands the need of the sign. He opened it up to the other board members.

Mr. Brahmachari asked Mr. Abelha in terms of the new sign in comparison to the other businesses can you explain how it would look with the adjacent signs. Mr. Abelha said the issue for this tenant is that they are located in the far-right corner of the plaza and the sign looks smaller.

Mr. Young asked if there was a sign on the front of the road on the pylon? Mr. Abelha confirmed that they do. Mr. Young asked if they wanted this new sign to be 40% larger than the current sign? Mr. Abelha said not 40% larger than the existing but of the allowed. He explained that the façade of the building was re-done, and it would accept a larger sign and it would be proportional to the façade. Mr. Young asked that the current sign is smaller than the guidelines now? And you want to make it 40% bigger. Mr. Abelha explained that what they are asking is still under what they are allowed 75 square feet. Mr. Young asked how big the other signs were in the plaza. Mr. Abelha explained that Mr. White had no record of any of the other tenants going for an appeal but what they are asking is appropriate considering that they re-did the façade.

Mr. Brahmachari questioned the location of the sign and wanted the other board members to weigh in. Mr. Garber showed a photo so that they could see a comparison. Mr. Garber presented an older photo which showed Rite Aid and the size of it and explained that this proposed sign would be smaller than the square footage that Rite Aid had. Ms. Costa from Signature Signs explained that Dollar Tree has a lot more frontage. Mr. Young wanted confirmation that the proposed sign is smaller than the old Rite Aid sign and asked if it was back-lit. Mr. Garber confirmed that this sign is smaller and that all of the signs are back-lit.

Mr. Brahmachari wanted to see a side-by-side comparison to make sure that the sign wasn't overpowering. Mr. Wallenstein suggested taking a wide-angle picture and transpose the sign you want in the location you want so we don't have to speculate. Mr. Garber stated that this added space isn't necessary because the sign will be less overpowering than the Rite Aid sign. Mr. Brahmachari agreed that it would be good to have a comparison, it could be a picture or in an elevation to the full extent of Shaw's gable.

Mr. Young stated that it is wise to be cautious because he would suspect that the tenants would want something similar, and we will be setting precedence. Mr. Abelha explained that the towns code allows for the additional 50% above the 50 square feet and they must have realized that situations like this come up and that if the other tenants wanted it, the Towns variance guidelines allows for it. He explained that he had a long conversation with Mr. White the Building Inspector at the time.

Mr. Wallenstein stated that you have up to that 50% but you still need approval. Mr. Brahmachari agreed. Mr. Garber stated that what he is asking for is allowed. Mr. Brahmachari would still feel more comfortable seeing an elevation for comparison. Ms. Costa stated that customers are having a hard time finding Dollar Tree and asked for a bigger sign. They have a lot of frontage, over 70 linear feet and its proportionate and fits very nicely.

Mr. Garber stated that we can do this tonight and they don't have to make the applicant come back. He presented an existing plaza which shows the other store fronts. Ms. Costa explained that the current letters are 26" tall and they are asking for 31" tall, an additional 5". Mr. Brahmachari was satisfied with the photo because this showed before and after. Mr. Garber stated that the increase allotment is in our code.

Mr. Garber asked if the board had anymore questions. Mr. Wallenstein wanted to know the width of the expansion of the new letters. Ms. Costa stated that it is going from 20 feet to 27 feet.

The board members were ultimately satisfied what they have seen and had no further comments. Mr. Garber opened to the public for comments. There weren't any and asked if the applicant wanted to close the case.

Motion:

Chair made a motion to close Case 1905 – 700 South Main Street – Dollar Tree. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Young, Brahmachari).

Motion:

Chair made a motion to approve the Special Permit for Case 1905 – 700 South Main Street. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Young, Brahmachari).

Case 1906 - 299-303 North Main Street

Present for the applicant: Mike Khoury, Madoff & Khoury, LLP, counsel for the applicant and Bill Buckley of Bay Colony Group, engineer for the applicant.

Mr. Garber read the legal notice into the record.

Mr. Garber gave the applicant screen share since he didn't have the renderings weren't online. Mr. Khoury gave a summary of what the project. He explained that they are looking for a comprehensive permit to allow the development of a 15-unit condominium located in 2 lots. 299 & 303 North Main Street. 303 was the auto repair shop that was built in 1938 and has fallen into a state of disrepair. 299 is a single-family residence built in 1960 and the two lots combined is 11.5 acres which 6.1 are buildable and 5.4 which are wetlands. They have applied under the local initiative program sponsored by the state Department of Housing Community Development, in order to ensure a cooperative way to develop affordable housing. It's not section 8 housing, it's just a requirement 20% of the units in a development are affordable by being discounted by 20% off of market value. He explained that they have proposed a LIP (Local Initiative Project) for approval of the project. This is based on the process outlined by the state chapter 40B and he stated that they went before the Town's select board to see if the project is eligible for a LIP and then they would need to go to the state DHCD for a letter of eligibility. They have received both approvals. He also stated that they had several meetings with the town, as well as a meeting with the abutters outlining the proposal. Mr. Khoury explained that it's not a subdivision, it will be built in a north-south fashion off of a single driveway which ends in a cul-de-sac, which satisfies the requirements for safety. The 15 units will be in grouped in 5 triplexes sections and be identical in size and configuration. There will be 11 market units and 4 affordable. It will be built within in the 6.1 acres of the two lots that isn't wetlands, and the remaining property will be donated to the town.

Mr. Garber asked if the redline on the drawing was the 100' buffer line. Mr. Buckley stated that yes it was approximately the 100-foot buffer line.

Mr. Khoury presented an aerial photo showing the existing conditions of the lots. He explained that the property from an environmental standpoint has been vetted twice. There were 2 environmental review that confirmed that the property doesn't present any environmental hazards and meets the legal requirements. He explained that the project will be done with as little disturbance to the woods and landscaping as possible. No disturbance to the wetlands of course and elimination of trees will be kept to as little as possible. They also have a planting scheme and there would be significant landscape buffers along the lot lines. Mr., Khoury also stated that they submitted a traffic study in support of the project and that there will be minimal increase in additional traffic impacts. Also, the site lines east and west exiting the driveway are almost 2 times the recommended requirements.

Mr. Khoury presented the renderings that the architect and designer have prepared. He presented several aerial views and a series of ground-level views showing how the driveway would be laid out and the view of the proposed units, the landscaping, etc.

Mr. Khoury completed his presentation and asked the chair if there was anything else that he should address. Mr. Garber thought that he did a good job presenting the project and he opened it up to the rest of the board.

Mr. Brahmachari asked what the purpose of tonight's meeting and the expectations. Mr. Khoury stated that they filed a formal application along with the plans for a comprehensive permit and he is hoping that the board will consider or grant the application for permit that has been endorsed by the state and the board of selectman.

Mr. Brahmachari thanked Mr. Khoury for the presentation and noted that there are a couple of things that need discussion, particularly the distance between buildings. Mr. Khoury noted that they are looking for a variance for the separation of the space between buildings 2 & 3 they need a special permit or variance to allow for the 21' separation rather than the 40'. Mr. Brahmachari also requested to see the planting plan that was discussed with the removal of the trees. Also, some of the units are close to the property line and can the design be revised. Mr. Khoury stated that they exceed the front yard, rear yard, and side yard requirements. Mr. Brahmachari asked why the clusters can't be separated to meet the 40' requirement. Mr. Buckley explained that there are some isolated wetlands and that they are trying to meet as many as the local regulations as possible and trying not to do any work within 50' of it which moves the driveway and buildings to the west. Also, the set-backs and septic systems are taking into consideration. Also, they have to consider the 100' buffer line. Mr. Brahmachari suggested that it may need a joint review with the fire department because the buildings are too close together and this is concerning. Mr. Garber asked if they have sprinkler systems and Mr. Buckley confirmed that they did and that they have had some meetings that included the fire department and that wasn't a concern. They were more concerned with access. Mr.

Garber stated that since they are all sprinkled being close together is null and void. Mr. Brahmachari suggested that there may be some added requirement aside of this review.

Mr. Young asked if the units were approximately 1000 sf. and Mr. Khoury stated that they are each 2840 sf of living space plus garage of 270 sf. with 2 bedrooms, a den or home office and 2.5 baths. Mr. Young asked for the proposed setbacks for the north, east and south. Mr. Buckley went through the plans and indicated the setbacks for each area. Mr. Young asked what the requirements are, and Mr. Khoury stated that it was 20' and that they met or exceed all of the setbacks. Mr. Young also questioned the location of some of the units relative to the property lines and Mr. Buckley replied with the information and all of the requirements are being met and there are trees between.

Mr. Wallenstein stated he was looking at the website and noted that there was a lot of material, and he hadn't had a chance to go through it completely, but he had a few initial comments. He noted that it's 2 single family houses and you want to go to 15 units with 3 bedrooms. He noted that that was a significant increase in density and was curious as to why they needed to squeeze so many into the area. And he was curious if the neighbors would feel the same way. Mr. Khoury said it's questionable on how many houses you can get in there due to the wetlands and the odd configuration. The cost of building one or two homes in that area would not justify the development. The design was done and the state and the selectboard found that it would be beneficial for the town. In maintaining its affordable housing count census and cleaning up the decapitated building. Mr. Khoury also stated that 40B allows and encourages for affordable housing in areas that normally wouldn't allow it. He also suggests that they are maintaining a good buffer along the west side and this project would compliment the homes along Gabriel Road and it's an attractive and appealing project which would substantially improve the area. Mr. Wallenstein asked if 40B overrides local zoning and Mr. Khoury stated that it doesn't. He asked Mr. Khoury to list the permits and variances that he needs. Mr. Wallenstein asked if there was any assurance that they can give the neighbors that they won't have to worry about any groundwater or surface contamination from the lot that has the garage/gas station for decades. Mr. Khoury noted that the environmental report from 2019 as well as an additional report that confirms that the property is clean. There were 2 LSP that did these reports, these are licensed people to review and analyze and both said it's clean. Mr. Khoury stated that he understood it that the meeting was about the tree removal and that realtors led them to believe that it was conservation land which was unfortunate. But they worked hard to maintain the tree line and developed a replanting scheme but there will be trees cleared.

Mr. Garber read a letter from the Town's Engineering Department (which is on the town website) into record which contained 25 items to be addressed. Mr. Garber stated that we don't have quite a few of these. Mr. Buckley stated that they are all valid comments, and many are already on the plan set of preliminary drawings that are needed for the permit. And that if the permit is approved all of these items will be addressed in the final construction drawings. Mr. Buckley stated that after this meeting they will be making any necessary changes and they will be drafting a response to the Town Engineer.

Mr. Brahmachari asked for a summary of the relief that they were asking for and Mr. Khoury went over the 3 items. Mr. Brahmachari stated that in the past we have reviewed engineering plans for similar projects at this stage and if the applicant is not prepared to produce the engineer plans at this moment, then the Town Engineers comments should be addressed. He also suggested that maybe a peer review would be needed. As an extension to the ZBA he was going to recommend a peer review with Tom Houston. Mr. Garber will reach out to Mr. O'Ca in regarding the peer review, and he will email what the comments are.

Mr. Garber opened the meeting to public comment.

Mr. Howard Ross, an attorney in town since 1986 and he is an abutter living on 287 North Main Street. He is going to be speaking on behalf of 10 abutters who have signed and filed their vehement objections to this project which he submitted on August 19, 2022. Mr. Ross read the letter into the record. He noted that one of the items read into the record stated that North Main going by this location is one of the most heavily traveled streets in Sharon and that waiting at the light in Cobb Corner is already a problem. The garage hasn't generated any traffic in over 20 years, and this is a Single Residence A Zone which has had no people living or cars at the moment and could easily be two houses with no objection. Mr. Ross stated that he was struck by the presentation of illustrations showing massive amounts of trees. It looked as if the condo complex would be completely shielded from the abutters on Gabriel Road who are objecting and the abutters on 291 North Main. One thing that hasn't been brought up is the septic systems. He believes that there are 4 of them literally at the property line of the 291 residents which have a putting green on their front yard with a tree buffer. If this project is allowed, they won't have that privacy. Mr. Ross also asked about the garages if they were one or two car garages. Mr. Buckley confirmed that they are a one car garage. Mr. Ross was wondering where the cars will be parked for the others potentially living in the house. Most families have more than one car. So how will this affect this already highly trafficked road. Mr. Ross also stated that a lot of

the abutters will be losing their privacy and that there isn't any necessity for this project. It will affect, so many abutters, with traffic, diminution and adverse effects of property values, noise during construction and after, decimation of nature land, several huge septic system and safety concerns arising with the additional traffic.

Mr. Khoury addressed the woods and noted that those woods aren't owned by the abutters, and they don't have control over those woods. He also noted that they aren't taking down anybody's trees from their property. They will only be taking trees from buildable land. If you look at the elevation with respect to Gabriel Road, there is a thick cover of woods including the cover with-in the local ordinance wetlands. In addition, there will also be a significant cover with regards to the west side and the applicant will take the input from the abutters and satisfy them within reason. The argument with the woods on private property, neighbors don't have the right to dictate provided it's reasonable and there are accommodations made for privacy. He also noted that there will not be a significant material increase in the traffic flow by these 15 units.

Mr. Ross asked Mr. Buckley to respond to where all of the cars will go because it doesn't look like there is on street parking. Mr. Buckley stated that each unit has a one car garage and each unit can handle one car in the driveway, so they will have 2 spaces and that there is additional parking throughout the development.

Mr. Mathew Keenan of 27 Gabriel Road stated that he hasn't gone to any prior meetings, and he is wondering how far they are into the process and are they locked into the number of units. He was wondering if there was any leeway, could it be smaller. He also questioned the offices vs. bedrooms, etc. because some of the offices will be used as bedrooms. He also wanted to know what the economics are for the town, how many school children, taxes, and expenditures by the town. Mr. Garber gave some reference as to why the select board agreed to the project regarding the percentage of 40B which keeps us from having major projects in town.

Kim Hokanson of 13 Gabriel Road she noted that she is on the east side and that the development is close to her and the beginning of Gabriel Road. She stated that they are fairly new to the project and that they just moved here. Ms. Hokanson mentioned that she met with the owner and inquired about the pocket playground and was wondering if that was a requirement. She also stated that there isn't a buffer on the east-side and she doesn't think that this will compliment her property. She also doesn't feel great about the planting scheme and has some concerns about the open spaces. Ms. Hokanson also has a concern with the parking particularly in the fire turnaround. Ms. Hokanson also noted that she was told that it was conservation land, and she has been told that it could be worse. Also, that the property is zoned for Single Family. She is not happy with the development.

Mr. Khoury addressed her comments and explained that the state has endorsed the project and that they aren't doing anything against the law. He also stated earlier that the playground can be removed.

Mr. Ross asked how the abutters can be notified of further hearings or proceedings. He stated that he happened to see the notice that he wouldn't have normally seen. Mr. Garber stated that anything that the developer does is supposed to go through the Building Department and that the abutters will be notified if there is a special hearing. Mr. Ross asked if there was a continuance would they be notified, and Mr. Garber stated that only in something substantial was happening. Mr. Ross stated that they were notified of all the prior meetings, etc.

Mr. Khoury stated that they met with the Town and had a public hearing with the Select Board.

Mr. Garber suggested that he reach out to the Select Board if he is suggesting a public hearing. Mr. Wallenstein suggested to go to the ZBA website to stay updated. Mr. Ross thanked the board and suggested that there must be a way that the abutters be notified.

Mr. Vincent Cho of 13 Gabriel Road wanted to know what they can expect for privacy levels. He wanted to point out that it's U shape and when you get to 13 and the cul-de-sac you don't have wetlands and you can see straight through because the trees aren't that dense. He asked for clarity on the re-planting plans.

In response, Mr. Buckley shared the landscaping plans and noted that it shows that there is a 4" wall with balsam fir trees that will be planted along the edges on the east side. Mr. Cho asked how large they are, Mr. Buckley stated that they start out at 5' and wasn't sure how quickly they grow.

Michelle Bosque of 14 Gabriel Road inquired on how they operationalize not significantly impacting traffic. How do you measure that and determine it's not a significant impact? She is concerned that when she leaves, she often gets stuck at Gabriel and Main Street and notes that they are at a section of Main Street where there have been several traffic accidents. How will this not become an issue.

Mr. Buckley stated that we are going to have another consultant review the traffic. He stated the consultants look at is the sight distance looking left and right and because it's on an outside of a curb you have over 700' of sight distance in each direction which is significantly more than what's required, and it can accommodate traffic going 50 mph. They also look at average daily trips and that this will add about 117 daily trips and stated that you can go on a MassDOT website and look at any road to see the traffic count and that the count for North Main Street is 12,000 cars so 117 is less than 1%. Ms. Bosque asked if that number was recently because not everybody is back to work due to the pandemic. Mr. Buckley stated that it is an estimate based on today from ASHTO.

Mr. Garber stated that Tom Houston will do a traffic study in the peer review. He also stated that the Town also has some studies on North Main Street for other projects prior to COVID.

Mr. Garber asked if any other attorneys wanted to speak and asked if any of the board members wanted to speak as well. He stated that we will have to continue the case and reach out to the Town Engineer to get the peer review initiated. And we can continue the case based on the peer review.

Motion:

Chair made a motion to continue Case 1906 - 299-303 North Main Street. Mr. Brahmachari seconded the motion. Approved by unanimous roll call vote 4-0-0 (Garber, Young, Brahmachari, Wallenstein).

The meeting adjourned

Respectfully submitted