

SHARON ZONING BOARD OF APPEALS

MINUTES OF WEDNESDAY, October 26, 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, October 26, 2022, at 7:00 P.M. The following members were present as established by roll call: Joe Garber, Chair, Hemant Mehta, 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 1908 – 52 Mountain Street – Continued from September 28, 2022

The applicant needed more time and asked that we continue the case until the November 9th meeting. Mr. Garber made a motion to continue.

Motion:

Chair made a motion to continue Case 1908 – 52 Mountain Street. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Wallenstein, Mehta).

Case 1906 - 299-303 North Main Street – Continued from August 21, 2022

Present for the applicant: Mike Khoury

Mr. Khoury explained that they are here on a 40B application under LIP program, deemed eligible by the Select Board in August 2021, subject to the Zoning Board approval. They submitted an application letter to the state Department of Housing and Community Development, which the state issued in May of 2022. He explained that the development will consist of 15- unit residential condominiums and that 4 units of the 15 would be affordable housing. They would be laid out in 5 triplexes off of a single driveway and 5.9 acres to the rear of the property would be donated to the town. Each unit will have 2 stories and a basement 2,840 s.f. of living space with a garage, 3 bedrooms and 2.5 baths. Mr. Khoury explained that one of the lots was a dilapidated abandoned gas station/auto repair garage that predated the zoning. He explained that the units would be built 150 feet back from the roadway with no disturbance of wetlands and elimination of tree cover to a minimum. Mr. Khoury mentioned that they submitted a new planting plan, as well as response to peer review memo prepared by Tom Houston and a revised site plan prepared by Mr. Buckley.

Mr. Buckley presented the new plans and stated that a lot of the comments from Mr. Houston were very detailed and stated that they have some additional work to do. Mr. Buckley presented the planting plan based on the comments from the prior meeting. They are showing a mixture of the different type of trees and that they tried to maximize putting in Evergreens near the homes. He explained that the grading of the houses is at a lower elevation and that the buildings won't be towering over any neighbors' homes. He stated that the trees are typically 6-10'. Mr. Buckley referred to the layout drawing and wanted to point out that the pocket playground was removed (based on concerns from abutters) and added 5 additional parking spaces in that area. There are 11 additional parking spaces other than the 2 spaces provided for each residence.

Mr. Garber asked if Mr. O'Cain wanted to make some comments. Mr. O'Cain suggested that Mr. Houston summarize his report and he would comment after.

Mr. Houston stated that they issued this report last Monday, but the applicant hadn't received it in advance of the meeting. He stated that under the 40B process the ZBA takes the place of other boards in the town. He mentioned that there is some zoning relief required. They are multifamily dwellings and not permitted in the Single Residence A district. Mr. Houston explained that under the 40B process these are termed waivers instead of variances and a waiver would be needed for the multifamily dwellings in order for the project to proceed. There are also issues regarding the separation between buildings and setback from the wetlands. Mr. Houston also mentioned the stormwater standards. He explained that they originally applied to only projects that

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were subject to Wetlands Protection Act, but they are so useful that they have become a universal standard for a stormwater design in Massachusetts. He noted that the stormwater design on the plan is in compliance with the standards. He went through the stormwater standards and explained each one. Mr. Houston acknowledged that they were missing an Operations and Maintenance plan and a Long -Term Pollution Prevention and Operation Maintenance Plan. The approach that the applicant used was to establish the feasibility of the project and at the end of the project they would have detailed plans called working drawings. That is how many 40B projects are done. There is a little flexibility because it is a LIP project. Mr. O'Cain believes that it would be in the Town's interest to address all of these issues prior to the decision. Mr. Houston stated that they are looking for 2 additional test pits and a few things are missing on the stormwater. But they can be wrapped up prior to decision.

Mr. Houston mentioned that there is no discharge to the onsite isolated wetland, which is good because with no discharge there would be no increase in water which could potentially affect neighbors. Mr. Houston also stated that they had asked for a guardrail around the infiltration basin, and it has been added to the drawings. We are also asking for a pedestrian fence for safety purposes.

Mr. Houston stated that the traffic studies that have been submitted don't provide a quantitative analysis of how the driveway where it intersects with North Main Street, will perform in terms of delay and quality of service which is referred to as "level of service". The reason the traffic engineer didn't quantify that is because we know that when you have a side street intersecting a main street, all of the delay results in the side street. Since it is a concern to the board members, Mr. Houston asked the traffic engineer to quantify that and to develop year 2030 traffic volumes and to compute the delays, etc. Mr. Houston believes that this would give the board a higher level of comfort. He stated that the total number of trips is 182, 91 in and 91 out. The project will generate 15 vehicle trips in the morning, and 16 in the evening. Mr. Garber asked if this study would consider if you took a left turn into the site. Mr. Houston stated that the greatest delay is to the people turning left off onto North Main Street.

Mr. Houston stated that they are concerned with parking and the number of onsite vehicles. The concern is since the units will have 3- bedrooms, it is possible that they have 3 vehicles for each unit by the residents. Mr. Houston would like to see on driveway or on street parking, but the pavement width is only 20'. They recommended that the roadway be designated with no parking on one side and widen the pavement to 22', this will provide a greater level of safety. Mr. Houston finished his summary. Mr. Garber turned the meeting over to Peter O'Cain, Town Engineer.

Mr. O'Cain thanked Mr. Houston and the applicant for their efforts. He then addressed the abutters letting them know that the 40B process is not the usual subdivision approval process. There are a lot of allowances for an applicant to encourage lower income housing and that's why these reliefs are provided. He explained that they had a discussion of how the process going to work without all of the final plans and documents. Mr. O'Cain's request to the applicant is if we are going to have standing technical documents, that no action be taken on the site until the documents have been submitted and approved by Mr. Houston, the Town Engineer, and the Building Inspector. He stated that the project is well within the density allowed with in the 40B regulations and the stormwater appears adequate, the water connection to town water is adequate and the traffic can be addressed. Mr. O'Cain asked the applicant or somebody on his team to confirm that they would agree to providing all drawings to the town prior to any work on the site, so that the ZBA will know how to move forward. He also asked the applicant and their team if they had any comments.

Mr. Khoury stated that they would be fine with this condition subject to any particular issues or wrinkles that Mr. Buckley may have with respect to preparational plan. Mr. O'Cain added that if they do find an area with an insurmountable issue that needs to be addressed, they may have to appear before the board, but otherwise that will be a condition of approval.

Mr. Garber confirmed that the applicant will be responding to Mr. Houston's comments. Mr. O'Cain asked Mr. Hinthorne if there is any architectural review required on his end. Mr. Hinthorne stated that his participation in the review is very limited at this point, and he was going to confer with the prior Building Inspector.

Mr. Garber opened the meeting to board members for comments and concerns.

Mr. Mehta stated that what we heard so far is pretty good. Wetland issues appear to be handled pretty well, traffic issues appear to be under control but going forward we may need to review a lot of things collectively with building department, etc. He stated that there is a lot of work to be done upon receiving full documentation. At this point he has no questions.

Mr. Wallenstein had a few questions about the waivers and approvals. He reviewed the materials sent and mentioned all of the waivers listed. Mr. Wallenstein noted that this development is in a single residence district with single families going to 15,

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which is a pretty big density increase. Mr. Wallenstein asked what the density allowed under the 40B and how is it calculated. Mr. Khoury stated that he doesn't have that information, but he can respond in a day or two in writing. Mr. Khoury also noted that they are well within the density requirements. Mr. Wallenstein wanted to know how that is permitted and calculated under 40B. Mr. Wallenstein asked about the waiver for permitted use by special permit. Mr. Houston responded stating that that permit was for the playground, but it is no longer required since the playground has been eliminated. Mr. Wallenstein asked about the setback between properties. Mr. Khoury stated that this waiver is not addressed in 40B and that is why they need the waiver. He stated that this limited waiver serves a larger purpose in allowing a project to provide affordable housing and yes 20' is a reduction from 40' but it's still a significant distance between.

Mr. Wallenstein asked about the grading within 100' wetlands waiver, he asked if that was a conservation commission issue or is it ZBA. Mr. Houston stated that it's both. The ZBA can step in and waive this if they thought it was in the public's interest. He stated that it's far enough away that they can control the impacts on the wetlands, and it only applies to the wetlands in the rear and the buildings are 90' away.

Mr. Wallenstein mentioned that he supports the process that Mr. Houston and Mr. O'Cain have discussed.

Mr. Garber opened the meeting to the abutters for comment.

Vincent Cho - 13 Gabriel Road, stated that he appreciated that the applicant did a double row of trees. He understands that they are going to be 5 feet in height, and he noted that they grow 1 foot per year and is it possible to have the trees higher. Mr. Houston stated that they had requested that the height of the trees be increased from 5 feet to 8-10 feet.

Mr. Garber asked if anybody else had any questions. He asked Mr. Ross if he had any questions.

Mr. Yuriy Lande who is the developer, asked Mr. Cho if he would be opened to having the trees planted in his back yard because he would benefit significantly. Mr. O'Cain stated they would need a legal right of entry from the homeowner. Mr. Lande stated by planting these trees in Mr. Cho's backyard he would be completely isolated. Mr. Lande will reach out to Mr. Cho for further discussion. Mr. Garber suggested that Mr. Cho provide his contact information to Ms. Katapodis, and she can forward to Mr. Khoury. Mr. O'Cain stated that their other abutters that are in the same situation. Mr. Khoury is going to collect phone numbers and will set up a meeting.

Mr. Garber asked when they would like to meet again. He stated that the next meeting would be on November 30th and asked if that was enough time for them. Mr. Khoury stated that they will use the time to respond to Mr. Houston's and Mr. O'Cain's comments, get the 40B density calculations. Mr. O'Cain suggested that Mr. Houston be part of the decision writing process. Mr. Khoury asked if the board would like him to involve Mr. Gellerman, Town Counsel. Mr. Garber thought that would be a good idea.

Motion:

Chair made a motion to continue Case 1906 – 299-300 North Main Street to November 30, 2022. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Wallenstein, Mehta).

The meeting adjourned.

Respectfully submitted