

SHARON ZONING BOARD OF APPEALS

MINUTES OF WEDNESDAY, November 9, 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, November 9, 2022, at 7:00 P.M. The following members were present as established by roll call: Joe Garber, Chair, Hemant Mehta, and Arnold Wallenstein. Also present for the town was Peter O'Cain, Town Engineer, Dana Hinthorne, Building Inspector, Eric Hooper, DPW Superintendent and Dick Geleman, Town Counsel.

Mr. Garber, Chair called the meeting to order at 7:00 PM. Mr. Garber, Chair, read Covid19 protocols per the Governor of MA and procedural ground rules.

Case 1911 – 144 Old Post Road (Sharon Gallery Phase 2)

Present for the applicant: Attorney Robert Shelmerdine representing 95 LLC, Matt Smith, Rich Hughes, and Alex Kraplin of Norwood Engineering.

Mr. Garber read the legal ad into the record.

Mr. Shelmerdine introduced himself and others present for the presentation. He noted that the application was filed on September 26, 2022, as Case No. 1911 He noted that a number of submittals have been made, including a 16 page site plan, stormwater management report and calculations, architectural plans & elevations, zoning table, landscape plan, lighting plan and traffic study in addition to a Master Plan Phase 2 as well as a form a plan which was a draft plan for Phase 1, which resulted in a permit being issued.

Mr. Shelmerdine presented sheet 2 of the Site Plan and explained that when you come in off of the cul-de-sac on the left you would see Building F and Costco, which was approved as part of Phase I, permits have been issued and filed with the Town Clerk but are being appealed. If you come in off to the cul-de-sac and heading in a westerly direction and you turn right into Phase 2, which has 4 buildings located on that parcel (Lot 3). These are the residential buildings A, B, C & D. It also has a pool and a clubhouse in the middle of the buildings. Mr. Shelmerdine noted that this will be a separate lot owned by the condo association eventually and this is what we are requesting to be permitted. He stated that they are asking relief for Site Plan review and approval, a variance to allow construction residential buildings greater than 250,000 square feet, special permit for the modification of groundwater flow (which was requested and approved on Phase I Building F) and a variance of minimum landscape strip along the street line.

Mr. Garber asked what the game plan was because there has to be a certain amount of commercial development before we can consider Phase 2 for the residential. Mr. Shelmerdine stated that the timing is a little off on the project, but they wanted to get started on the review of this application. He stated that all of the documents have been uploaded on the town website, as well as submitted to Tom Houston for a peer review. Mr. Houston is preparing a proposal and will get it to Mr. Shelmerdine as soon as possible. Mr. Shelmerdine acknowledged that there is a way to go before a decision would be granted for this Phase. He stated that this was an initial presentation of this application.

Mr. Garber asked that besides the 8,000 square foot increase in the residential area, will the number of units increase? Mr. Shelmerdine stated that there is a total of 180 units which is lower than the maximum of 225 units allowed. He also stated that there are other obligations that need to be addressed in the MOU. There are other conditions that will impact the residential aspect of this which will most likely be conditions as part of the decision.

Mr. Shelmerdine presented a rendering showing what the proposed final plan will look like. Mr. Garber asked if any plans have been submitted to the building department yet. Mr. Shelmerdine answered that they have not until they get an answer from the board. Mr. Hughes presented the floorplans of the units and the parking underneath which represents each building. Mr. Garber asked how many bedrooms in each unit and Mr. Shelmerdine answered that they were 2- bedroom units. Mr. Shelmerdine also stated that a portion of these units will be affordable. He stated that the sizes of the unit vary but the buildings will look the same.

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There are 2 buildings containing 47 units and the other 2 buildings have 31 units and they are three stories, 1300-1700 square feet. All of the buildings will have parking underneath for residents and surface parking for guests. There will be elevators from the garage to the units. Mr. Shelmerdine presented the layout for clubhouse and pool.

Mr. Shelmerdine noted that not all of the documents presented tonight are on the town website, but he will forward so that they can be added. He also presented the front, rear and side elevations of the buildings and the clubhouse. He explained that the color rendition brings it to better light, and he noted that at this point he doesn't have anything else to present.

Mr. Garber asked if Mr. Spiegel will be building this or if it's a separate entity. Mr. Shelmerdine stated that David is getting the permit, but he is not sure who will be building it. Mr. Garber stated that they will have to get the peer review done before the board can provide any relief.

Mr. Garber stated that there is a list of things that are unresolved and need to be discussed. Particularly, the street-lights that have been installed but aren't functioning. It's an issue of safety, there aren't any guardrails, etc. Mr. Spiegel needs to address these issues because there are residents at the point. Mr. Garber stated that they don't know how much further that they can go until these other issues are resolved. Mr. Shelmerdine noted that he would speak with Mr. Spiegel regarding these issues. He commented that there isn't any active use of the roadway except during the day. Mr. Garber explained that if somebody gets hurt, they will go after the person responsible for the roadway.

Mr. O'Cain had a question for Mr. Gelerman, he asked if this project lies under the current zoning that was just approved at last Town Meeting. Mr. Gelerman confirmed that this was correct. Mr. O'Cain said there was a change in the definition of the lot coverage, and he has a few questions of how the lot coverage was calculated on the plans, it appears that the entire 56 acres was used in the calculation. Mr. Hughes stated that they looked at the coverage for the overall bases of the project using the 56 acres rather than each individual lot. Mr. O'Cain's expressed his concerns regarding the calculations of the lot coverages. He asked that since it will be divided into three 3 different lots with 3 separate owners, should we be looking at the entire 56 acres as land contributing to the lot coverage calculation and some of the other calculations for the project? Mr. Gelerman requested that Mr. O'Cain send an email with these questions and Mr. Shelmerdine asked to be copied on the email.

Mr. O'Cain also noted that when he was reviewing the plan, there is a dashed line indicating where the underground parking ends and extends to well beyond the building all the way to the clubhouse wall. It appears to share a wall with the clubhouse. Mr. O'Cain asked if the clubhouse has a full foundation. Mr. O'Cain noted that on Building D appears to share a common wall with the clubhouse and be at most 6' from the inground pool. He stated that we would need to see the proposed foundation for this kind of thing. Mr. Smith stated that the major structural work will be the wall of the parking below and the clubhouse is just on slabs and the pool will be built off of that wall. The major structural wall is at the edge of the parking. Mr. O'Cain explained that he needs dimensions on the parking plans to make sure it fits on this tight knit design. Mr. O'Cain also mentioned that it appears that the easement on the roadway into the site doesn't appear incorporate the end of the roadway into the easement. It is only on one side of the road if there's a separate owner it has to encompass both sides of the roadway. Mr. Shelmerdine and Mr. Hughes both stated that they will fix it. Mr. O'Cain also stated that the roadway lighting and handrails on the wall need to be addressed on the bog side. He stated that there is a big drop that is dangerous to pedestrians. Mr. Garber stated that there is another one on the righthand side. Mr. O'Cain stated that the original plan had handrails on the road and he recommends that they go in quickly. He stated that Mr. Houston will get into the details regarding the drainage, etc.

Mr. Shelmerdine asked the chair if there were any other questions. He also asked if we had enough members for a quorum and that if any members miss a meeting that they watch the recording of the meeting. He also noted that there was a letter posted from the Board of Health and asked Mr. Garber to read it into record. Mr. Garber read the letter from Kevin Davis dated November 2, 2022. Mr. Shelmerdine asked Norwood Engineering if they had anything else to present or discuss. Mr. Smith stated that at this point they don't, and they look forward to going through the review process. He is happy to answer any technical questions.

Mr. Garber opened the meeting to the board members.

Mr. Mehta stated that it was a nice presentation and a good introductory of Phase 2 and it is clear what is being planned. But there is a lot to grasp and a lot to review. He commented that prior to the next submission of drawings and plans, they should address phasing issues and construction sequence associated with sitework, site roads, safety related items, etc. These things

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need to be addressed, so that we can get to Phase 2. Mr. Mehta mentioned that the engineering and architectural team has challenges but none of the engineering issues appear to be show-stoppers.

Mr. Wallenstein stated that this was his first exposure to the project, and he doesn't have any specific comments. He stated that he will read the 2017 Development Agreement with the Town and he will look into all of the previously submitted documentation that is on the website. He asked if this is under the prior zoning or the zoning that was just approved. Mr. Gelerman explained that general rule is that once an application is in, it comes in under existing zoning and changes in zoning doesn't affect it. Mr. Wallenstein confirmed that this falls under the prior zoning and he mentioned an opposition letter that just came in today. Mr. Garber expressed that we just received it and should hold off on it for now.

Mr. Garber asked Mr. Hinthorne if he had any comments. Mr. Hinthorne addressed his concerns regarding the retaining wall and the lights for the safety of the town people that live in the apartments. He mentioned that a gentleman came in looking for permission to build a retaining wall in that area. Mr. Hinthorne stated he couldn't give him permission and asked him to make an appointment to discuss.

Mr. O'Cain asked if there were going to be foundation plans submitted. Mr. Smith stated that they would want to get through this phase before they complete the foundation plans.

Mr. Shelmerdine suggested that anybody that is new to the project it may be helpful to take a look at Site Plan Approval for Phase I. This will show the scope and extent of the project and the review and approval process.

Mr. Garber asked Mr. Hooper if he had any comments from the DPW end. Mr. Hooper stated that he didn't really have any comments other than what was discussed earlier.

Mr. Garber asked the public if they had any questions at this time.

Mr. Keith Scarfo of 189 Old Post Road, adjacent to the proposed site. Mr. Scarfo wanted to know who would be responsible for maintaining the stockade fence and will be maintained in the future as part of the plan. Mr. Smith stated that yes, that was the intent. Mr. O'Cain asked if Mr. Scarfo wanted this to be part of the approval and Mr. Scarfo replied yes.

Mr. Garber asked Mr. Shelmerdine how much time he needs for the next meeting. Mr. Shelmerdine stated that Mr. O'Cain and Mr. Houston need more time to do the peer review. Mr. Shelmerdine stated that based on what Mr. Houston told him that December 14th should be enough time. Mr. O'Cain confirmed with Mr. Houston that December 14th would work. Mr. Shelmerdine thanked everybody for their time.

MINUTES

September 28, 2022

Motion:

Chair made a motion to approve minutes from September 28, 2022. Mr. Wallenstein seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Wallenstein, Mehta).

The meeting adjourned.

Respectfully submitted