

SHARON ZONING BOARD OF APPEALS

MINUTES OF WEDNESDAY, November 30, 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 30, 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 Dana Hinthorne, Building Inspector.

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 1910 – 6 Arboro Drive

Present for the applicant: Resident Igor Tsinman

Mr. Garber read the legal ad into the record.

Mr. Garber read memo from Kevin Davis, Board of Health dated October 13, 2022, into the record.

Mr. Tsinman gave an overview his project. He explained that this will be a garage replacement of a dilapidated structure and will not be touching any living area and not adding any bedrooms, etc. The existing garage is not structurally sound and can't be repaired. Mr. Tsinman presented a graphic showing the existing detached garage and that explained that he is proposing to move the new garage forward and attach it to the house. The new garage will be the same size as the existing garage, and it would be over the existing driveway and slightly moved toward the street. Mr. Tsinman also presented a graphic of the current structure showing the cracks in the foundation and the left side is leaning so that the door can't be open. After inspection by a structural engineer, it was determined that the existing garage cannot be repaired. Mr. Tsinman explained that the current location is inconvenient and close to wetlands and by moving the new garage forward will reduce the length to the property line.

Mr. Tsinman presented a plan of the existing structure and explained that it's non-conforming and that is how it was when he bought it in 1996. It shows a one-story garage in the back of the plan. He stated that its close to the property line and non-conforming. Mr. Tsinman presented another plan that showed the location of the new structure. He explained that it will be moved further up onto the current driveway, and it will be in line with the house. He explained that the line bordering the property line is shorter in the new structure and while the distance is approximately the same, 1' smaller than it is now.

Mr. Tsinman completed his presentation and stated that he doesn't think it will increase the non-conformity and that it will be slightly less. He stated that he presented the plan to the Conservation Commission, and they are supportive since it will be moved away from the back wetlands line. He also stated that it won't impact any neighbors and will potentially increase the value of the house and tax base. He asked that the board approve his project.

Mr. Garber explained that the reason the prior building inspector rejected this project is because the house is currently non-conforming and when it was built the setback requirements were different for that area and have since changed significantly. The setback requirement for the Rural2 District is 30 feet from the sideline, that is the minimum. Mr. Garber explained that the existing bump out of the house is 18 feet from the property line and 21 feet from the wetlands and that's what makes its currently non-conforming situation. Mr. Garber explained that we as a board have had several projects like yours, where many people wanted to encroach into the setback, and we don't grant that variance because it doesn't meet the level of a hardship. He explained that approving a structure that is only 6 feet from the property line won't get approved by any of the board members. Mr. Garber also mentioned that the previous building inspector that reviewed the application would have told Mr. Tsinman what the setback is. Mr. Tsinman stated that he understands but asked that if he rebuilds the current garage in the existing location, it would be approved? Mr. Garber stated that the proposed location won't make it past our meeting tonight because the board will not grant 24 feet of relief. Mr. Garber asked Mr. Hinthorne, Building Inspector to explain what Mr. Tsinman can do on the existing footprint.

Mr. Hinthorne explained that Mr. Tsinman would have to show us exactly what the foundation is and where the exact setbacks are as it relates to the property line. We would need a surveyed plot plan showing exact measurements and to rebuild it as well

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as some paperwork stating that it can't be rebuilt. Mr. Hinthorne asked to see the existing plan again to take another look. Mr. Mehta asked what the existing side setback is because that is the real driver. Mr. Tsinman stated that it was a approximately 8 feet. Mr. Mehta mentioned that 8 feet reducing to 6 feet is the point of discussion.

There was discussion about keeping the existing footprint. Mr. Hinthorne explained they would have to determine what the foundation is. If it's a slab and it's cracked, then its structural issue and needs to be rebuilt. Mr. Hinthorne stated that Mr. Tsinman has a better chance of rebuilding and keeping it in its current location. Mr. Garber explained that the board has denied even down to 2 feet into a setback and that it's something that the board doesn't entertain. 12 feet is a very large hoop to jump through. Mr. Garber opened the discussion to the board members.

Mr. Mehta thanked Mr. Tsinman for his presentation to clearly indicate what he was planning to do. He explained that we have to recognize that it's a non-conforming lot and that section 6412 (A1) allows a change if it doesn't substantially increase the non-conformity and that's what we need to discuss. Mr. Mehta noted the proposed new garage is 6 feet from the property line and that the existing one-story is 7-8 feet and the degree of change in non-conformity from 8-6 feet for something that is in the back of the house, to me is a non-issue. But this is what needs to be discussed.

Mr. Garber clarified that where the existing garage is and where the new location is aren't relevant to each other because you are building a new attached garage in the 18-foot setback which reduces it to 6 feet which is 12 feet of relief. Asking for the 12 feet of relief is the issue. Mr. Mehta stated that he understood if it is location based.

Mr. Wallenstein summarized his understanding of the setbacks and asked that Mr. Tsinman should be asking for a variance. He stated that he doesn't think the application is correct. Mr. Wallenstein also stated that the relief is substantial, and the board won't approve it. Mr. Wallenstein agreed that he should rebuild it in the existing location.

Mr. Garber stated that the alternative is to reconstruct what you have or get the proposed attached closer to the house to stay at the original 18 feet setback where your house is now. Mr. Tsinman stated that it's not possible but asked what some realistic expectations are so that he can work with an architect. He also stated that he paid a lot of money for this and got basically nothing.

Mr. Steven Grayman of 9 Arboro drive explained that he lives directly across from Mr. Tsinman. He stated that he doesn't have any knowledge on zoning and the zoning laws and rules but wanted to comment that what Mr. Tsinman is proposing to do will have zero impact on the neighborhood. He noted that what Mr. Tsinman wants to do is a beautiful thing and it would enhance the neighborhood. Mr. Garber explained that the town tries to keep open space on lots. Mr. Hinthorne explained that the town wants to minimize the closeness of structures on the property lines. He also stated that if relief is granted in regard to this project, then there will be other projects that will try to push it more. Mr. Garber stated that we want to avoid setting a precedence. Mr. Grayman explained that he just wanted to state his feelings as a neighbor and what he knows of the neighborhood. Mr. Tsinman commented that he understands the intent of the border setbacks but mentioned that the property lines border the backs of the properties and he's not getting any closer to the structures. Mr. Garber explained that the setbacks are required to maintain open space.

Mr. Grayman thanked the board for letting him speak.

Mr. Garber reiterated that the board will not grant that type of relief. Mr. Tsinman said so basically your decision is to deny the project. Mr. Garber said it would only be denied if you were to close and we were to vote on it but if you want to continue the case and come up with an alternative that works with what you have and present it to the building inspector my suggestion would be to continue. Mr. Tsinman said what he hears is that the only option is to propose to replace the existing structure. Mr. Garber explained that as Mr. Wallenstein stated that a detached which is an accessory building is 10' from the residence and 10' from the property line. If you meet those requirements, you wouldn't have to come back to the board. Mr. Hinthorne confirmed that he was correct, and he agreed not to close the case.

Mr. Garber asked Mr. Tsinman if he would like to continue and explained that we meet every 2nd and 4th Wednesday of the month. He asked Mr. Tsinman how much time he would need. Mr. Tsinman stated that he will try for February 8th and thanked the board for their time.

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Motion:

Chair made a motion to continue Case 1910 - Arbor Drive to February 8, 2023. Mr. Wallenstein seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Wallenstein, Mehta).

MINUTES

October 12, 2022

Motion:

Chair made a motion to approve minutes from October 12, 2022. Mr. Wallenstein seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Wallenstein, Mehta).

The meeting adjourned.

Respectfully submitted