

SHARON ZONING BOARD OF APPEALS

MINUTES OF WEDNESDAY, January 11, 2023

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, January 11, 2023 at 7:00 P.M. The following members were present as established by roll call: Joe Garber, Chair, Hemant Mehta, Arnold Wallenstein, and Michelle Katapodis, Administrative Assistant. Also present for the town Dana Hinthorne, Building Inspector and Thomas Houston of Professional Services Corporation, PC.

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.

Mr. Garber opened the meeting by reading the agenda items. There are two continued cases and one new case to be discussed.

Case 1912 – 1200 General Edwards Highway (Four Daughters Compassionate Care)- Continued from December 21, 2022

Present for the applicant: Joes Fishman, Attorney for Four Daughters Compassionate Care

Mr. Garber told Mr. Fishman that he would take his case first because he received an email from town counsel. Mr. Fishman explained that they are working out some language to a condition and they would need more time. Mr. Garber asked him if he wanted to continue this case and Mr. Fishman replied, yes to the next available meeting. Ms. Katapodis confirmed that the next scheduled meeting was January 25, 2023.

Motion:

Chair made a motion to continue Case 1912- 1200 General Edwards Highway (Four Daughters Compassionate Care) to January 25, 2023. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

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

Present for the applicant: Attorney Mike Khoury of Maddoff & Khoury, LLP representing Yuriy Lande, Applicant, Bill Buckley of the Bay Colony Group, Inc.

Mr. Khoury explained that this was a continued hearing from December 21 and gave a brief summary of the project. He stated that when we last met on December 21st that the board suggested that they defer any further action by the board until Mr. Houston completed his third peer review memo based on the changes that we presented. Mr. Khoury stated that he had received the memorandum and would like to proceed.

Mr. Houston presented the report and explained that the bottom paragraph on page 1 of the report sums up where they are. He explained that the applicant has adequately addressed all of the comments raised in first two reports and in his opinion in reaching the decision on the comprehensive permit, the board may consider the issues we raised regarding zoning, stormwater, transportation, and site planning issues to be satisfactorily resolved. Mr. Houston also explained that in this memorandum they skipped over the issues that had been previously addressed and this memorandum just discusses the issues that were outstanding from their 3rd submittal.

Mr. Houston went through some of the comments starting with the Mass Stormwater Standards and explained that the applicant has submitted the stormwater management plan and the content is satisfactory. Mr. Houston also mentioned that they required two more test pits which have been completed and the soil is good. The test pit confirmed the design criteria for the stormwater basin and because the results were favorable there are no design revision necessary to the stormwater basin. Mr. Houston explained that in one of the comments they thought that maybe the applicant was doing too good of a job retaining all of the stormwater runoff and was concerned that this may have a drying affect on the wetlands, the applicant addressed that by adding a small pipe to let a little bit of the water into the wetlands. The applicant has also provided a safety fence around the basin and a specific Stormceptor as requested.

SHARON ZONING BOARD OF APPEALS

MINUTES OF WEDNESDAY, January 11, 2023

Mr. Houston moved onto the traffic comments and explained that a mid-week automatic traffic count was done. They were able to develop AM and PM peak traffic volumes and they have calculated the level of service. Mr. Houston explained that any delays that would be experienced by project residents. He stated that the traffic on North Main Street is minimally affected. Mr. Houston also stated that they had asked for some traffic demand management measures and offered some recommendations to minimize traffic during construction. Mr. Houston will provide a plan prior to construction.

Mr. Houston discussed the concern regarding the onsite wetland in Comment 24, which was resolved. The wetland is determined not to be a vernal pool.

Comment Nos. 25 & 26 expressed concern regarding the adequacy of parking even though there are 2 spaces per unit and some additional spaces. But the applicant has agreed to widen the pavement to 22' as a safety measure and there will be a no parking restriction on one side of the street. This will ensure the passage of emergency vehicles.

Mr. Houston stated that the applicant submitted a "Truck Turning Plan" to address Comment 29. This shows that Sharon's fire apparatus can enter the site and use the cul-de-sac to turn around without any excessive maneuvering.

Comment Nos. 32 & 33 requested an increase in the size of the trees that are being planted in the buffer zone and also to replace the hardwood trees along the westerly side boundary and replacing with evergreen trees.

Comment No. 34 is a detail of replacing a certain shrub that isn't sun tolerant.

The applicant has provided a "Snow Storage Plan" which addresses Comment No. 36.

Mr. Houston summarized the 4 waivers that the applicant is requesting from the Zoning Board. He also explained the waiver needed by the Conservation Commission. And there are a number of waivers needed by the Board of Health, Mr. Houston described them as technical waivers.

Mr. Houston also went through the list of recommended Conditions of Approval (COA) for the board to consider when making the decision. He read all 12 COA's and gave a brief explanation of each recommendation.

Mr. Houston completed his presentation.

Mr. Garber asked Mr. Khoury or Mr. Buckley if they had anything that they wanted to add. He explained that he spoke to Mr. O'Cain, who was unable to attend tonight's meeting, and Mr. O'Cain wants to be able to review the recommended COA's. Mr. Garber asked if this was the first time that Mr. Khoury had seen the report. Mr. Khoury wanted to clarify that one of the COA's is that they will be going to the Conservation Commission for an Order of Conditions as well as to submit an amendment Stormwater Report with a Notice of Intent and asked if that means that the board act on Waiver No. 5? He wanted to know if the Conservation Commission would be granting that waiver or the ZBA. Mr. Garber stated that the waiver may fall under the Conservation Commission, but the ZBA may have done that in the past, but he would have to look for some history on some other cases. Mr. Khoury expressed that they had prepared their application based on the assumption that the board would be using its right to grant that waiver. Mr. Garber stated that he believes that the ZBA has done it several times in the past. He also reiterated that Mr. O'Cain wants to have some time to review these and maybe it would be best to continue the case until January 25th and asked if that would give them enough time. Mr. Hinthorne stated that he will also need some time to review the conditions.

Mr. Garber opened the meeting to the board members for comment.

Mr. Mehta's assessment is that Mr. Houston had an in-depth review of all of the documents submitted and raised many good issues. The applicant and the designer were able to submit satisfactory responses. He thinks the engineering department should take a little time to review but overall, he didn't see any issues and the conditions are appropriate. He didn't have any additional questions.

Mr. Wallenstein stated that the report was good and comprehensive. He noted that Mr. Houston mentioned waivers under Section 2434 (c) regarding the minimum separation of the buildings, Section 3322 (d) waiver to build within 100' of the wetlands and Section 2311 a waiver to build multi residences in a single residence district. Mr. Wallenstein asked about Section 6230 which is the Comprehensive Permit section of the bylaw and if we needed some approval of this or is that not considered a waiver. Mr. Houston responded that he didn't think there was a waiver necessary that it was just the board's authority to issue

SHARON ZONING BOARD OF APPEALS

MINUTES OF WEDNESDAY, January 11, 2023

the permit and if you have a particular concern about something that is required to be submitted and isn't being submitted, we can discuss that. Mr. Wallenstein explained that it wasn't mentioned when Mr. Houston was reading through the memorandum. Mr. Wallenstein asked if this latest version of the memorandum was posted on the website. Mr. Houston stated that he wasn't sure but had submitted it to Mr. O'Ca in. Mr. Garber stated that it was sent to the board members in an email and confirmed that it was uploaded to the website. Mr. Wallenstein stated that he didn't have any other comments.

Mr. Garber asked if any abutters had any comments.

Mr. Garber asked Mr. Khoury if he wanted to continue the case until January 25, 2023. Mr. Khoury stated that he should have a draft of the order in the next few days for Mr. Houston and town counsels review and asked if he should send to the Board as well. Mr. Garber suggested that he copy the board members as well as Mr. O'Ca in.

Motion:

Chair made a motion to continue Case 1906-299-303 North Main Street to January 25, 2023. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

Case 1908 – 52 Mountain Street- Continued from September 28, 2022

Present for the applicant: Laird and Amanda Borchers, Residents

Mr. Borchers explained that this was the first continuance from the original meeting and at the original hearing they were proposing an addition that infringed on the 30-foot offset on the side boarder of their property. They went back to their architect and plot planner and had the plans redrawn. He displayed the revised certified plot plan, and it reflects a 36' x 12' addition on the right hand side of the existing house and he noted that at the back corner of the property they start to meet up to the 30' offset and they have drawn a jog to go in a foot so they can continue back with a width of 11' and don't infringe on the 30'. The updated plan also contains a second proposed addition. The reason for this is since they had to redraw the addition on the right side, they have lost square footage and proposed to add a second smaller addition on the backside of the other side of the home. This addition is directly behind the existing home and does not protrude any further. Both of the additions have done some strategic work with the footings to maintain the offsets of their septic system. Mr. Borchers stated that he submitted a revised plans to Mr. Garber and Ms. Katapodis. Mr. Garber asked if have elevations yet. Mr. Laird stated that they don't at the moment because the architect is backed up and the thought that maybe we could get through this meeting without them. Mr. Laird also noted that these are one-story additions.

Mr. Garber stated that he doesn't have any issues and appreciates the time that they took to stay within the setbacks. He opened the meeting to the board members.

Mr. Mehta stated he has no issues and is in favor of approving the revised layout based on the revisions.

Mr. Wallenstein was concerned that the left side of the addition increased the non-conformity because it isn't within the 30' set back and that this would set a precedent. He asked the Board to explain why we would provide relief on the left side addition. Mr. Garber explained that the addition Mr. Borchers is just extending the left-hand exterior wall by 15' and the whole house is already into the side setback by approximately 6' and the addition is not increasing the detriment to the neighborhood because it follows the path of the original house. There was further discussion regarding the Special Permit and Mr. Wallenstein didn't have any further questions.

Mr. Hinthorne is satisfied with the changes.

Mr. Garber asked if the public or abutters had any questions or comments, there were none.

Mr. Garber asked Mr. Borchers if he wanted to close his case and Mr. Borchers said ye.

Motion:

Chair made a motion to close Case 1908-52 Mountain Street with an added condition to the Standard Conditions, that 52 Mountain Street is a 3-bedroom home and will remain a 3-bedroom home. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

SHARON ZONING BOARD OF APPEALS

MINUTES OF WEDNESDAY, January 11, 2023

Case 1913 – 16 Bullard Street

Present for the applicant: Alec Christian, Resident.

Mr. Garber read the legal ad and correspondence from the Conservation Commission into the record. The letter from the Board of Health was missing. Mr. Christian thought he didn't need to contact the board of health since his project wouldn't impact his septic system. Mr. Garber explained that he would need a letter by Kevin Davis, the Health Agent signing off on the project.

Mr. Christian asked if it was still possible to discuss the project and he can come back at a later date. Mr. Garber stated that he can present his plans but we won't be able to make any decisions.

Mr. Christian presented his plot plan and architectural renderings and explained that he wants to extend and cover an existing wooden porch and convert it to a mudroom. Mr. Garber asked if the project was the whole house and Mr. Christian explained it was just the porch and because he wanted to build on the front area of the house, he had to come to the Zoning Board.

Mr. Garber stated that the front set-back requirement is 50' and the house is already a non-conforming structure and extending the porch will increase the non-conformity. This wouldn't fall under a special permit but would require a variance. Mr. Garber explained that they very rarely grant variances for increasing the non-conformity and told Mr. Christian that he wouldn't meet the hardship requirements to obtain the variance.

Mr. Christian explained that they already have a brick walk-way and the proposed mudroom would be on top of the walk-way. It wouldn't be extending onto the grass. Mr. Garber explained that because he is building a structure that is attached to the house that increases the non-conformity and you would be adding footings and a foundation. Mr. Hinthorne confirmed that this was correct and asked if Mr. Christian has given any thought in reworking the design and keeping it in line with the existing structure. Mr. Christian asked what would constitute a hardship. Mr. Garber explained the hardships and said that he doesn't meet these hardships.

Mr. Christian asked if he would need a special permit if he was to build within the existing porch area. Mr. Garber stated if he was to build within his existing house and you meet building commissioner's requirements, then you would be granted a build by right permit. Mr. Hinthorne confirmed that this was correct because he would be within the footprint of the building. Mr. Hinthorne also explained that if he stays within that foot-print he may not need anything by the board of health.

Mr. Garber opened the discussion to the board members.

Mr. Mehta stated that there is minimal impact and the design blends well. He also wanted to recognize that the shape of the parcel with is irregular which causes physical restraints and causes difficulty meeting setbacks. Mr. Mehta was in favor of approving this but after hearing the issues he concurs with Mr. Garber and Mr. Hinthorne.

Mr. Wallenstein agrees with Mr. Garber's analysis, and he doesn't think this is approvable.

Mr. Garber explained to the applicant that he should go back to the building commissioner with a redefined drawing and that this won't pass tonight. Mr. Wallenstein suggested that he ask for a continuance and figure out a way to meet the requirements. Mr. Garber stated if he doesn't have to come back to the Zoning Board he can have the option to withdraw his case and asked if he would like to withdraw. Mr. Christian asked if there was a detriment to ask for a continuance and later withdraw. Mr. Garber stated that he can do that but what he has now won't pass.

Ms. Katapodis explained that she would email a continuance form and gave him the next available meeting dates.

Motion:

Chair made a motion to continue Case 1913- 16 Bullard Street. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

OTHER BUSINESS:

Case 1492 – 635 Old Post Road – Modifications to Comprehensive Permit – Sharon Residences, LLC

SHARON ZONING BOARD OF APPEALS

MINUTES OF WEDNESDAY, January 11, 2023

Mr. Garber gave a brief history of the project and explained that this was just an administrative procedure to approve insubstantial changes to the comprehensive permit. This would allow the conversion of the project from a 40B to a LIP project.

Mr. Devin, representing the applicant Sharon Residences, LLC explained why they are seeking the modifications to the permit. Mr. Garber explained that town counsel and the board of selectmen have agreed with the findings submitted and opened the discussion to the board members.

Mr. Mehta didn't have any questions.

Mr. Wallenstein asked what the original timeline for constructing building two. Mr. Devin stated that the original construction deadline was later this month, and they filed this request well within the required time. Mr. Devin explained that if he had not filed the request, it would have expired and that it has been extended several times over the years.

Mr. Garber asked Mr. Devin what he is looking for tonight and Mr. Devin explained that he is asking to board to determine that the following 3 requests are insubstantial:

1. Amend the decision by deleting all references to MassHousing as the Subsidizing Agency and substituting therefore the Department of Housing and Community Development.
2. Delete all references to New England Fund (NEF) financing and substituting therefor conventional financing.
3. Extend the time within which construction of Building #2 must be commenced until June 30, 2023.

Motion:

Chair made a motion to vote to approve the three modifications requested for Case 1492 – 635 Old Post Road are insubstantial. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

MINUTES

November 9, 2022

Motion:

Chair made a motion to approve minutes from November 9, 2022. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

MINUTES

November 30, 2022

Motion:

Chair made a motion to approve minutes from November 9, 2022. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

The meeting adjourned.

Respectfully submitted