

# **SHARON ZONING BOARD OF APPEALS**

## **MINUTES OF WEDNESDAY, March 22, 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, March 22, 2023, 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, Michelle Katapodis, ZBA Administrative Assistant, 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 1912– 1200 General Edwards Highway (Four Daughters Compassionate Care)– Continued from February 8, 2023**

Applicant requested a continuance to April 26, 2023.

#### **Motion:**

Chair made motion to continue Case 1912– 1200 General Edwards Highway until April 26, 2023. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

### **Case 1913– 16 Bullard Street– Continued from January 11, 2023**

Present for the applicant – Alec Christian

Mr. Garber read the legal ad into the record. He also read a letter from the Jeff Philibert, Conservation Administrator dated November 28, 2022, and a letter from Kevin Davis, Board of Health dated March 16, 2023.

Mr. Christian presented the plans and explained that he is proposing to extend a porch in the front of the house into a mudroom which would add 5' to the non-conformity. Previously we were told that we would need a variance but after conferring with Town Counsel it was determined that we would need a special permit under the new bylaws.

Mr. Garber explained that there was a lot of back and forth regarding this case and that the board was trying to figure out if it required a variance or special permit. Town counsel determined that this case is similar to The Bellota vs. the Brookline ZBA case that was decided in land court. Town counsel used this case to apply to the new town bylaws which explains the process for permit granting authority.

Mr. Christian stated that he and his wife do not feel that the mudroom would not be more substantially detrimental to the neighborhood and explained that they are only asking for 5' and it wouldn't extend further than where their walkway is. He stated that he hasn't heard any objections from any abutters, and it would add value to the property.

Mr. Garber referred back to the plot plan so that they can see the dimensions. He explained that this decision is now a special permit under the new zoning bylaw 5.5 whether it's more detrimental and it is up to each individual board member to decide.

Mr. Mehta stated that a 5.5' x 9' mudroom has absolutely no impact and in reality, it is hardly even noticeable. He explained that he is for approving the special permit.

Mr. Wallenstein explained that the new bylaw 5.5 has a special provision for two-family and single residential structures. He explained further that this section liberalizes the prior zoning bylaw and that it goes a little further than the Bellota decision by authorizing the board to grant a special permit in the case of an alternation of existing nonconforming use and it doesn't talk about variances anymore. Mr. Wallenstein stated that if this was a major addition, he may have an issue with it but it's a small extension and the amount of extra intrusion into the setbacks is minimal.

# SHARON ZONING BOARD OF APPEALS

## MINUTES OF WEDNESDAY, March 22, 2023

Mr. Garber opened the meeting to a butters or public comment.

Mr. Garber asked Mr. Christian if we would like to close his case and Mr. Christian answered yes.

### **Motion:**

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

### **Motion:**

Chair made a motion approve Cases 1913 – 16 Bullard Street, with standard conditions. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

### **Case 1916 – 355 South Main Street**

Present for the applicant Jason and Taryn Tessari – residents.

Mr. Garber read the legal ad into the record.

Mr. Garber read a letter dated March 14, 2023, from Kevin Davis, Board of Health Agent.

Mr. Garber asked Mr. Tessari if they got a letter from the Conservation Commission. Mr. Tessari explained that it wasn't on the list of requirements. Ms. Tessari stated that it was her understanding that the Town communicates with the Conservation Commission and was told that the application was complete.

Mr. Tessari presented the drawings and explained that they are renovating what was previously a garage that was converted into a chiropractor's office to a residential space for his mother-in-law. It is attached to the main building via a breezeway and has a shared attic space. The breezeway is about 6" off the ground and it's one solid structure under one roof. The space is currently still designated as commercial from the previous owner who had the chiropractor business.

Mr. Garber explained that the house has been there for quite a while and that it's all under one structure and you could enter the chiropractor's office from the house. The applicant is asking to reclassify the space from commercial back to residential.

Mr. Tessari explained that his mother-in-law is living with them, and they have no intention of renting the space out. He stated that this has been a problem because they had been issued all the appropriate permits and have done a lot of work only to find out months later that they couldn't continue. Ms. Tessari explained that her mother has a terminal illness and that is the reason that they need this space completed. She also explained that there are letters from doctors etc. Mr. Garber explained that we can't base any decisions on anything other than the zoning bylaws and we will do the best we can as long as it doesn't affect zoning.

Ms. Katapodis was able to locate the letter from the Conservation Commission and Mr. Garber read it to the record. The letter was dated March 2, 2023, from Josh Philibert, Conservation Administrator.

Mr. Garber opened the meeting to the board members.

Mr. Mehta explained his understanding of the project and stated that all the work will be done to the interior and that there isn't any addition. He explained that it's should just be an administrative action to reclassify the property from commercial to residential and he has no issue with that.

Mr. Wallenstein explained that under Section 8.4.1. of the current bylaw, titled Dwelling Conversions, it states that within Single Residence, Suburban and Rural Districts, the following uses may be authorized on special permit from the ZBA. Subsection 1 states that one additional principal dwelling unit within a building or structure. Mr. Wallenstein inquired if this was the Single Residence District and if so, this bylaw fits the application perfectly. He explained that it's discretionary of the ZBA and he doesn't have an issue with this.

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Mr. Garber opened the meeting to the public and direct abutters to provide any comments.

Laura Nelson of Edgehill Road explained that she was curious that due to a lot of people dealing with family members that have health issues would there be a problem adding a ramp in the future if necessary? Mr. Tessari explained that they have made the home more accessible by adding handholds and different ramps where necessary to make the house as safe as possible.

Alex of 45 Oak Hill Drive wanted to express her support for the Tessari's application.

Mr. Garber asked Mr. Tessari if he wanted to close his case and he stated that he would and he is hoping it is just a paperwork issue and will be quick so that they can move on. He thanked the board for listening.

### **Motion:**

Chair made a motion close Cases 1916-355 South Main Street. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

### **Motion:**

Chair made a motion approve Cases 1916-355 South Main Street, to reclassify the property from commercial to residential, with standard conditions. The house was a four-bedroom but will now be a five-bedroom. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

### **Minutes:**

Chair made a motion to approve the meeting minutes from January 25, 2023. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

Meeting adjourned 8:33 pm.

Respectfully submitted