

# **SHARON ZONING BOARD OF APPEALS**

## **MINUTES OF WEDNESDAY, June 28, 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 on 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, June 28, 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, Peter O'Cain, Town Engineer, Richard Gellerman, Town Counsel, Tom Houston, PSC and Michelle Katapodis, ZBA Administrative Assistant.

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 1918 – 17 Chestnut Street – Continued from June 21, 2023**

Present for the applicant, Deepak Wadhwa, resident

Mr. Garber explained that he thought that the Historical Commission would have the letter ready for tonight's meeting and stated that he can't move forward until he gets the letter from the Historical Commission. Mr. Wadhwa expressed his frustration because he had been waiting for the letter for a long time. He stated that the plans have been approved unanimously. Mr. Mehta asked who should take any action to make this happen, should the applicant or the Zoning Board. Mr. Garber asked Attorney Gellerman the question and he suggested that Mr. Garber reach out to him again. Mr. Garber suggested having an off-scheduled meeting if he hears back from the Historical Commission and asked the board members if they were available. Mr. Wadhwa explained that he can wait another week and a special meeting isn't necessary.

### **Motion:**

The chair made a motion to continue Case 1918 – 17 Chestnut Street to July 12, 2023. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

### **Case 1920 – 810 South Main Street, Sharon Marketplace Reconfiguration**

Present for the applicant, Attorney Robert Shelmerdine, Ken Cram from Bayside Engineering and Bill and Bob DePietri, Capital Group, owners of Sharon Marketplace.

Mr. Garber read the legal notice into the record.

Mr. Garber read a letter from Josh Philibert, Conservation Administrator dated May 9, 2023, and a letter from Kevin Davis, Agent of the Board of Health dated May 21, 2023.

Mr. Shelmerdine gave a brief introduction and presented the proposed parking reconfiguration plan for Shaw's parking lot which was submitted as part of the application. He noted that the entrance way to Sharon Gallery is to the north explained that this is part of the whole Sharon Gallery complex. Mr. Shelmerdine stated that MassDOT has approved, as of March 2, 2023, to reconfigure South Main Street at this location. He explained that they are reconfiguring the parking lot within Sharon Marketplace so that the main entrance way will be right across from Old Post Road with a four-way intersection.

Mr. Shelmerdine explained that Case 1921 will feature what they would like to do in addition and that 700 South Main Street is most of the parking lot. They aren't expanding it except for 810 South Main Street, adding some parking spaces. Currently there isn't anything there, it's just dirt, not wetlands, no vegetation and the parcel was owned by the Town of Sharon purchased by the applicant with the thought of adding this to the parking count. This will be added to ownership to 700 Main Street, LLC. Mr. Shelmerdine noted that there is an area of the lot that is owned by the Conservation Commission with a conservation restriction which prohibits residential and commercial use, so they had to reconfigure around that parcel. There are 544 proposed parking spaces. The total number of square footage of buildings within the plaza, which includes the Shaw's Supermarket, totals approximately 104,000 square feet and the parking space requirement for that square footage is 520 spaces or 5 spots for every thousand square feet.

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Mr. Cram gave a presentation describing what the reconfiguration will look like. He presented the survey plot plan and explained the existing conditions of the parking lot and compared it to the proposed lot. Mr. Cram detailed the reconfiguration, explaining that the driveway, being under the control of the traffic signal, is used to divide the site to create 2 areas of parking. He stated that landscaped islands will be provided to help control traffic flow around the parking lot. Mr. Cram stated that by utilizing the 810 South Main Street parcel, they were able to get the number of parking spaces needed. Mr. Cram presented a plan showing how the tractor trailers will enter and exit the site. Mr. Garber asked if there would be signage to direct the trucks. Mr. Cram stated that there would be signs added.

Mr. Garber asked Mr. Cram to explain the new traffic signals. Mr. Cram noted the locations of the traffic signals and stated that there will be 4 new signals and 1 existing that will all be interconnected and coordinated.

Mr. Garber opened the meeting for the board members. Mr. Mehta stated that he may need some clarification regarding the issues with groundwater and stormwater protection resulting from increased impervious surfaces and the parking spaces. He asked Mr. Cram how he addressed these issues. Mr. Cram stated that the original task was to match the existing parking spaces or increase them and the issues for the wetlands impact and stormwater could be better addressed by Mr. Houston. Mr. Mehta asked that if 810 South Main Street wasn't used would this alleviate the issues. Mr. Shelmerdine stated that if they don't use 810 South Main Street, they wouldn't meet the parking requirements of 520 spots. They would need one spot and Mr. Shelmerdine asked Mr. Cram if they could find one spot if necessary. He stated that they probably could. Mr. Shelmerdine stated that he would let Mr. Houston address this.

Mr. Wallenstein asked if the primary purpose of this whole configuration is to align the exit and entrance from the Shaw's parking lot with a new traffic signal on the other side of the street at Sharon Gallery. Mr. Cram confirmed that he was correct. Mr. Wallenstein agreed that it needs to be done so that there is rational traffic flow. He also asked if the applicant, 700 Main Street, LLC was the same entity that sued the Town of Sharon to overturn the Zoning Board of Appeals issuance of special permits to 95 LLC and if the suit was still ongoing. Mr. Garber stated that this should be addressed to the Town Counsel. Attorney Gellerman explained that the litigation is being handled by other counsel for 95 LLC and the understanding is that if we are able to reach an agreement on the parking lot reconfiguration it would resolve the issues in the litigation.

There was some general discussion regarding the parking lot and how busy the traffic flow can be at times. The applicant stated that Shaw's has complete control of the parking lot and any changes to the plan they would have to sign off on it. Mr. Shelmerdine explained that the 810 South Main Street is a complete add-on, and he is hoping that there won't be a problem with it.

Mr. Houston presented his report on the Conceptual Parking Plan for Parking Improvement for Case 1920. He explained that these cases are independent, and the decisions are independent. Mr. Houston stated that the proposed parking spaces exceed the requirements of 520 spaces. Mr. Houston discussed the raised islands that are within the parking lot and that they are critical to protecting the traffic flow. He stated that the new signal significantly improves the quality of access to the site. Mr. Houston also discussed the jurisdictional wetlands and that they will need to obtain an order of conditions for state and local bylaw regulations.

Mr. Houston stated that the information that has been provided to date is sufficient for the board to decide on the project in terms of the broad-based zoning issues. But prior to recording with the registry of deeds there are six (6) minor changes that need to be made to the plans before they are filed. After the decision, you really need actual engineered site plans, and you also need an engineered site plan as you make your application to the Conservation Commission. He stated that in order to expedite the process the design be backed in after the decision is made. He stated that to do this he would recommend that Mr. O'Cain, the Town Engineer be appointed as an agent of the Zoning Board and his task would be to review the detailed plans when they are submitted and make sure that they are following the decision and then issue a Notice to Proceed to the applicant. There was some discussion to combine the lots.

Mr. Houston explained the relief that the Zoning Board has to grant to the applicant and they are as follows: Modification of a previously approved Site Plan; Waiver of required Minor Site Plan Approval; Special Permit to allow for the change or substantial extension of a Non-Conforming Use; Variance for an increase in lot coverage; Special Permit under Section 9.2.8 of Sharon Zoning Bylaws for an increase in impervious materials coverage; and a Permit to relocate the pylon sign.

Mr. Houston completed the review of his report and listed the changes that should be made prior to filing as well as recommendations regarding the local approval process.

Mr. Garber asked the board members if they had any questions for Mr. Houston.

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Mr. Mehta stated that he liked the idea of combining the two lots but said that this doesn't mitigate any of these environmental wastewater issues. Mr. Houston confirmed this statement and explained that combining the two lots is just a real estate development type of thing. Mr. Mehta asked what level of design needs to be approved for this decision. Mr. Houston stated that the final design can be deferred until after the decision. Mr. Mehta asked for some clarification as to why these two projects are independent since the addition of the restaurant pad affected the number of parking spaces. Mr. Houston explained the reasoning behind the two separate projects and that approval of one doesn't constrain what can be done on the other project.

Mr. Wallenstein stated that it seems inefficient to have two independent projects that require special permits, variances, etc. and a bunch of approvals. He asked if we should figure out what is going to be approved and do it once. Mr. Houston explained that an applicant can submit the same plan for each project, and he doesn't understand why they submitted 2 plans. Mr. Shelmerdine explained that the reconfiguration of the parking lot is something that the Sharon Gallery is going to be doing and the potential restaurant pad is going to be done by the owner of the Sharon Marketplace, separate applicants. The restaurant pad is dependent on the reconfiguration of the parking lot. If 810 is an issue maybe it can be eliminated in a further reconfiguration, but they would still have the ability to come back for the restaurant pad and go through the necessary requirements through the Conservation Commission for the additional parking.

Mr. Shelmerdine asked if we could table Case 1920 and move on to discuss Case 1921.

### **Case 1921 – 700 South Main Street, Sharon Marketplace PAD**

Present for the applicant, Attorney Robert Shelmerdine, Ken Cram from Bayside Engineering and Bill and Bob DePietri, Capital Group, owners of Sharon Marketplace

Attorney Shelmerdine gave an introduction of the project and explained that the plan presented for Case 1921 presumes that the previous plan in Case 1920 has already been approved. He explained that you will see the same configuration and details on this plan with the exception of a 5,000 square foot retail store that will be a restaurant with a drive through on the upper right-hand corner of the plan as well as a retail establishment. Mr. Garber questioned the drive-thru, he thought there was something in the bylaws that it is not allowed. Mr. Shelmerdine stated that he will take a look at that but believes that it is ok since this is Business District B.

Mr. Garber read the legal ad into the record.

Mr. Garber read a letter from Josh Philibert, Conservation Administrator dated May 9, 2023, and a letter from Kevin Davis, Agent of the Board of Health dated May 21, 2023.

Mr. Shelmerdine continued presenting the project and stated that they had some architectural drawings. Mr. Shelmerdine asked Bill DePietri to explain what their plans are for the restaurant PAD. Mr. DePietri explained that right now they don't have any tenants and that it could be two tenants, one tenant or a sit-down type of restaurant. They don't envision a fast-food restaurant. It could be a Duncans, could be a bank, etc. Mr. Shelmerdine explained that there will be some parking flow and parking spaces will be reduced and they have requested a variance.

Mr. Houston went over his report for Case 1921. He stated that drive-throughs are now a use by right in all business districts and it is permitted here. He also mentioned there are some stormwater management upgrades that are necessary. Mr. Houston stated that the parking space count is different with this addition, and you end up with only 503 usable parking spaces, which is less than the required 521. He also stated that this parking lot is not heavily utilized. Mr. Houston discussed the trip generation estimates and explained that if you treat the entire lot as a shopping plaza there isn't much of a difference. Mr. Houston proceeded and reviewed the relief that the applicant is seeking to clarify for the Zoning Board's decision. He also went over the list of plan refinements required prior to recording the plans with the Registry of Deeds. He noted that the reports are similar for both cases.

Mr. Garber asked if the engineering report will include the recommendations for stormwater mitigation, etc. Mr. Houston stated he would be happy to assist Mr. O'Ca in with this if he wants.

Mr. Mehta didn't have any questions but stated that we need to figure out a way to streamline the next steps for efficiency purposes.

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Mr. Wallenstein stated that Mr. Houston's report highlights all of the things that need to be done but it seems a little ponderous to have to do each case separately. Mr. DePietri stated that they don't have any issues to combine the two cases and they have discussed parking on 810 and they would be willing to give that up. Mr. Gellerman stated that the 810 seems to be causing problems with the Conservation Commission and they would have an easier time with Conservation Commission if we could allow for a reduction of the parking spaces. He stated that this would help the project move forward and he explained that he is representing the Select Board and the Town Administrator, and they would support this relief. He explained that if there was flexibility with 810 and not requiring any parking lot, he could draft some language if the board wishes.

Mr. Garber went over the calculations for required parking and stated that with the addition of the restaurant PAD, they will be losing 23 spaces. He also reiterated that the parking lot never fills up. He asked Mr. Gellerman if the cases were combined as, one would they have to refile? Mr. Shelmerdine requested that we keep them separate since they are very similar.

### **Motion:**

The chair made a motion to continue Case 1920 – 810 South Main Street, Sharon Marketplace Reconfiguration to July 19, 2023. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

### **Motion:**

The chair made a motion to continue Case 1921 – 700 South Main Street, Sharon Marketplace PAD to July 19, 2023. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

### **Minutes:**

April 12, 2023

### **Motion:**

The chair made a motion to accept the minutes from April 12, 2023. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

Meeting adjourned at 9:24 p.m.

A recording of the meeting in its entirety can be found on <https://sharontv.com/programs/government-meeting/>

Respectfully Submitted