

SHARON ZONING BOARD OF APPEALS

MINUTES OF WEDNESDAY, August 9, 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, August 9, 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'Ca in, Town Engineer, David Abbott, Building Inspector, Fire Chief Michael Madden, Deputy Dan Greenfield, Police Chief Steve Coffey, Robert Maidman, Planning Board, Richard Geleman, 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 1911 - 144 Old Post Road (Sharon Gallery Phase 2) – continued from July 26, 2023

Case 1911A – 144 Old Post Road (Supplemental Application, Sharon Gallery Phase 2, Residential Condominiums)

Present for the applicant, Attorney Robert Shelmerdine

Mr. Shelmerdine apologized and stated that they still aren't ready to go forward on these cases tonight and requested a continuance to the first scheduled meeting in September.

Mr. Garber agreed it would be fine to continue, but stated that he had received some correspondence from Fire Chief Michael Madden.

Mr. Garber read the letter into the record, which requested that the ZBA set a condition that would require the applicant to hire a third-party engineering service to be responsible for reviewing and approving the design, fire protection system and related plans before a building permit is issued. The conditions were listed and reasoning explained.

Mr. Garber stated that in agreement with Town Counsel's recommendation, the chair is going to make a recommendation to the Board to vote on assigning a third-party engineering service to oversee the project.

Attorney Shelmerdine agreed with the conditions and wasn't sure if a vote was actually necessary.

Mr. Geleman suggested taking a vote.

Mr. Shelmerdine, wanted to clarify that this was a condition in the decision and that this doesn't have to be done before Chief Madden agreed and is in support of the development and believes the Town supplies a list of vendors for the applicant to choose the engineering firm to work with. Attorney Geleman stated that in this case the board will designate a vendor at a later time.

Mr. Houston recommended that the board expand the vote because the structural and architectural aspects of this project are beyond what the Town sees every day. He also stated that the vote should include architectural, structural and fire protection peer review. He feels its best as a condition, because you can't complete any of this until building is designed.

Mr. O'Ca in stated that hiring a third-party building inspection service might also be necessary because additional inspectors might be needed to cover this job.

Attorney Geleman will draft a document for review at the next meeting for Case 1911-1911A.

After discussion a special meeting on September 20, 2023 was agreed upon.

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Mr. Mehta stated that he has no other questions or comments.

Mr. O'Ca in stated that the language is fine and wanted to note for the record, not in the decision, that filing with the Conservation Commission is going to have to be completed.

Attorney Shelmerdine stated that they were meeting with Conservation Commission tomorrow.

Motion:

The chair made a motion to continue Case 1911 & 1911A – 144 Old Post Road to Wednesday, September 20, 2023. Mr. Mehta seconded the motion. Approved by unanimous roll call vote 3-0-0 (Garber, Mehta, Wallenstein).

Mr. Wallenstein inquired if there was a separate agreement with the Selectmen in regard to phase 2 of this project. Attorney Gelerman stated that there is a development agreement between the Selectmen and Sharon Gallery and that there is an amendment to the agreement which he and Attorney Shelmerdine are finishing. Mr. Wallenstein requested that an email of the agreement and amendment be sent. Attorney Gelerman confirmed it would be sent to the board.

Case 1920 – 810 South Main Street, Sharon Marketplace Reconfiguration – continued from July 26th. **Case 1921 – 700 South Main Street, Sharon Marketplace PAD – continued from July 26th.**

Present for the applicant, Attorney Robert Shelmerdine, Bill and Bob DePietri, Capital Group, owners of Sharon Marketplace.

Mr. Houston shared Modification for Case 1921-700 South Main Street, Sharon Marketplace Parking lot PAD and explained a minor correction in the name of project. He stated that the name should be Sharon Marketplace-Parking Lot-PAD Plan.

Attorney Shelmerdine gave an explanation of what had been done with Decision Case 1921 draft in the last two weeks and how he had made some minor changes, fixed typos, added waivers and changed some dates. He also explained that they had added some language referencing testimony on behalf of Police Chief Coffey, Fire Chief Madden and Deputy Chief Greenfield.

Attorney Shelmerdine also explained a Modification of a decision on Case 965 issued on October 7, 1987 and additional language added to modifications 1-6. One big change on item 5 was explained pertaining to the parking lot.

Mr. Houston stated that Bayside Engineering has been working on finalizing the items, and that the sketches sent are on track to improve these conditions. Also, that the truck turning issues are pretty good now, but can be substantially improved. Chief Madden agreed that these changes appear to address his concerns. Mr. Houston requested the left turns out of the Whitney Place Facility be prohibited to improve traffic flow.

There was some discussion regarding the turn radius for the trucks exiting and entering the property. It was suggested to look at original Whitney Place plans for more information.

Mr. DePietri questioned the condition on 5b, to just limit tractor trailer trucks, not just any delivery truck. Mr. Houston agreed that it was an acceptable suggestion. Mr. Garber agreed and stated that the same conditions were instituted for Cumberland Farms. He mentioned re-writing condition 5b to show that change. Mr. Houston agreed and should be part of the language and changing to "prohibiting tractor trailer deliveries". Mr. DePietri agreed but wanted to change "in the future", to "whenever possible." Mr. Houston suggested "in the future and when practicable."

Attorney Shelmerdine referenced one more change on condition 28. He stated that Attorney Gelerman had suggested it not be listed as the Town, but in fact the Town Engineer.

Mr. O'Ca in questioned condition 5b and the ability to enforce delivery restrictions and asked if he had concerns about a major time changes would applicant defer to Zoning Board?

Mr. Wallenstein recommended leaving condition as is and if violated would be subject to Zoning Board hearing.

Mr. Mehta agrees with the language and has no concerns.

Mr. DePietri and Attorney Shelmerdine also agree with the language changes.

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Mr. Wallenstein noted some minor concerns and edits, which were addressed. Mr. Shelmerdine and Mr. Houston explained some of his concerns.

Attorney Shelmerdine explained that 1920 & 1921 changes are the same and asked to proceed with the process.

Attorney Shelmerdine explained that these decisions are set up with timelines so that it is a phased decision. The Zoning Board gets through their portion then there are design requirements, etc. He explained that they need this decision to be signed so that they can begin working in the field and he's not anticipating any changes. Attorney Gelerman reiterated that they want sufficient time to review the document before deciding.

Mr. Mehta expressed that he agrees with Attorney Shelmerdine and that they could and should decide tonight. Mr. Garber explained that since they still need to go to the Conservation Commission before they can get a permit anyway and it would do the Board a disservice if we didn't take the time to read the decision in detail and this can wait until the August 9th meeting. Mr. O'Cain stated that he does not want the Board to vote on the decisions tonight. Mr. Wallenstein agreed and that he wouldn't vote on anything that he hasn't read.

Motion:

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

Mr. Garber asked the other attendees from the Town if they had any questions or concerns, they did not. He also asked if any neighbors or abutters had any questions or concerns, there were none.

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

Motion:

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

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

Meeting Adjourned

Respectfully Submitted