

SHARON ZONING BOARD OF APPEALS MINUTES OF AUGUST 28, 2019

A regular meeting of the Sharon Zoning Board of Appeals was held on Wednesday, August 28, 2019 at 7:00 P.M. in the Second Floor conference room at the Sharon Community Center, 219 Massapoag Avenue. The following members were present: Abe Brahmachari, Joe Garber, Steve Weiss, and Steve Cohen.

7:04 P.M. Brian Hollenbeck, 9 Cottage Street, Case No. 1843 – New Hearing

Mr. Brahmachari read the Legal Notice, a letter from Kevin Davis, Agent of the Board of Health, dated August 15, 2019, and a letter from Greg Meister, Conservation Administrator, dated August 26, 2019.

The applicant, Mr. Brian Hollenbeck, explained that his 1940's home is 20 feet from property line and current proposal is to add a 2nd floor to an addition from the 1990s with an additional expansion of the kitchen. House is a three bedroom and will become a 4 bedroom. Because they are within 20 feet, and even actually 10 feet of the property line they need to come to ZBA. Kevin Davis requires new septic to accommodate fourth bedroom that is being added.

Viewing the plans, the addition is on the right-hand side. Nothing comes out from existing structure they are only looking to go up.

Applicant asked to close the hearing.

Mr. Brahmachari moved to close the hearing. Mr. Garber seconded the motion. The Board voted in favor of closing the hearing (4-0-0).

Mr. Brahmachari moved to approve the application for addition of fourth bedroom and expanded kitchen plans for Case No. 1843 at 9 Cottage Street with standard conditions. The plans include a plot plan dated June 26, 2019, from DMG Associates, Berkley, MA and architectural plans dated July 18, 2018, by RJD Architectural Designs, Norfolk, MA. Mr. Garber seconded the motion.

The Board voted 3-0-0 in favor of the plans (Brahmachari, Garber, Cohen).

7:12 P.M. Rajiah Denny, 40 Harold Street, Case No. 1844 – New Hearing

Mr. Brahmachari read the Legal Notice, a letter from Kevin Davis, Agent of the Board of Health, dated August 14, 2019, and a letter from Greg Meister, Conservation Administrator, dated August 26, 2019. Mr. Meister concluded that due to the property's existing nonconformity and with dimensional regulatory requirements and the unacceptable precedent that would be established with any approval, Mr. Meister strongly recommended in his letter that the Board deny this proposal.

The applicant, Mr. Denny, was present. Mr. Matthew Costa, Gay & Gay, P.C., Taunton, MA, attorney for Mr. Denny, explained that as shown on plans addition is a preexisting non-conforming structure on a non-conforming lot. The 0.63 acre lot doesn't meet the 80,000

square feet required in Rural District 2, and existing setbacks are less than what is allowed. But Mr. Denny contended that the expansion is in keeping with neighborhood. Under special permit they are allowed to expand a preexisting, non-conforming dwelling and the proposal puts an addition within the footprint of an existing deck. No shovels will go in the ground. Deck is currently 22x14 (308 sq. feet). They want to enclose current deck.

Mr. Denny hired a builder to do the addition and the builder represented that he would take care of municipal permits, but after construction started Mr. Denny learned that the addition was started without necessary Building Permit, Special Permit, and/or Order of Conditions.

Mr. Denny met with the Mr. Kent, Building Inspector, and Mr. Meister. Mr. Costa noted that they are here to see if project can be permitted as if the previous building never happened. Client's attorney read the last paragraph from a letter submitted by applicant dated May 21, 2019, from Oxbow Associates, Inc., Acton MA, which explained that based on site observations and factoring in appropriate mitigation in tandem with the proposed activity, Oxbow Associates is confident that the deck addition will not result in any measurable deleterious impacts.

Referring to the lack of permits, Mr. Brahmachari stated that these are the kinds of cases the Zoning Board does not want to see. He also noted that the deck was approved as a recreational open deck (Case #1729, November 13, 2013) by Conservation Committee and that was an encroachment to begin with, but Board allowed that with assumption that that would be left open.

Mr. Denny agreed it was reviewed in 2013 as raised recreational deck with expectation that it wouldn't be covered. Attorney and Mr. Denny show plan from 2013 reflecting what the footprint was. Mr. Denny explained he purchased as 3-bedroom home, but zoning considers it a 2 bedroom. Once they had deck, there were a lot of mosquitos, they want it screened in. The contractor told Mr. Denny he had worked with town before and that he was all set to proceed and then, one week later, the Building Inspector knocked on door and said it was not permitted.

Mr. Brahmachari mentioned since they had already been thru this process and knew it was a non-conforming lot that needs a special permit it should have been checked. Board discussed whether there was a condition from 2013 Decision. Attorney has 2013 decision and previous drawings.

Board members discussed having allowed addition of deck within setback zone in the past. And, that it is a slippery path from a deck to screened porch, to 3-season porch, to 4-season porch. Remember there was concern about the deck addition in 2013 staying a deck if granted approval.

No foundation change. Connection to house from stairs on to deck and then door into house. Per Mr. Denny, footings are not going to be changed. Mr. Denny mentioned that Building Inspector said posts are 4 x 4, but may need to be 6x6. Attorney argued that it isn't any concern/impact to wetlands and that if Conservation Commissioner requires gravel, it is fine.

Attorney said ZBA's only concern should be any detrimental effect to neighbors. Board members expressed being okay with deck, but not enclosed, and also whether, if approved, it sets a precedent being located only 37 feet from wetlands.

Mr. Brahmachari suggested while ZBA does research on previous approval, Mr. Denny meet with Greg Meister and Joe Kent and find out if there is any option.

Daiwei Wang, 36 Harold Street, was present and has no concerns thus far.

Hearing continued until September 11, 2019, at applicant's request.

7:50 P.M. Optima Hospitality Group Inc., 2R and 4R General Edwards, (990 Boston Providence Hwy.), Case No. 1845 – New Hearing

Mr. Brahmachari read the Legal Notice, a letter from Greg Meister, Conservation Administrator, dated August 26, 2019, and a letter from Kevin Davis, Agent of the Board of Health, dated August 14, 2019. Conservation Administrator noted in letter that the Sharon Conservation Commission is nearing completion of its hearing for this project.

Present for the applicant were Phil Macchi, Esquire, Macchi & Macchi, LLC, Norwood, MA; David Wluka, principle from Optima Hospitality Group, LLC, Sharon, MA, and Dave Johnson, Norwood Engineering, Norwood, MA.

Mr. Wluka explained that the property is split between Sharon and Walpole and so approvals from both towns have been required in order to build a 116-room La Quinta hotel. The two Town Administrators have worked together to make the project feasible. In 2001 Town Meeting voted the Sharon portion be zoned for a hotel. The Sharon piece is landlocked, but a Walpole Town Meeting vote secured water and sewer access to the location.

By condition of Walpole, 55% of hotel has to be in Walpole and half of Sharon share of room tax (22.5%) goes to Walpole. So about \$140,000 yearly with no cost to Sharon to develop a landlocked spot. Walpole expects about \$325,000 yearly but supplies fire, police, etc. Walpole is lead permitting authority and Sharon's oversight is peer review for a fee.

Highlights of project per Mr. Wluka include an extensive traffic study and curb cut added; solar panels on roof and shed parking with more solar canopies; five electric car spots and five more hookups; enclosed meeting/conference space, covered walkway to Applebee's.

McMahon Associates did traffic studies which closed Route 1 curb cut close to light and backed it up so drivers have time to get in left lane at that light. Limited service offered, not an extended stay hotel. September 5, 2019, Walpole will close their standing order.

Phil Macchi, attorney, referred to "Memorandum in Support of Application for Special Permits/Site Plan Review," submitted with application by Optima Hospitality Group, LLC, Sharon, MA, as he explained that the site conforms to everything except needs a special permit under Section 4535 Impervious Materials Coverage pursuant to Section 4540 as 15% impervious coverage is allowed and there is a 60% maximum; they are proposing 43.9%.

Encroachment on wetland buffer is a conservation jurisdiction, and they've applied for the appropriate relief through Notice of Intent, a hearing has been held, and vote on Order of Conditions will be at Sharon Conservation meeting on September 5, 2019.

Mr. Macchi also stated they need a special permit for hotel under Section 2334. k and this project meets criteria for authority to grant special permit for a hotel. Criteria for second special permit considers whether site is appropriate or not. Hotel fits with the neighborhood. I-95 is residential district, but houses are across the highway. Traffic study by McMahon Associates submitted to town engineering department and it indicated project will not increase or decrease traffic. Mr. Macchi noted a key piece of project is getting water and sewer from Walpole. Not approved yet, but expected. If not granted, there will be no hotel. Aside from that there are ample facilities for this hotel.

Mr. Brahmachari asked for specifics on agreements between towns. Attorney explained process in detail. Also noted that it was done by two town Administrators and the Towns' Select Boards working together. Approval for MWRA sewer connection and water supplied by Town of Walpole still needed.

The water at the site is currently untreated; portion in Sharon is trees. The storm water management system is designed with a series of catch basins, manholes, and piping which collect runoff from the proposed development and the adjacent watersheds. These devices provide pre-treatment prior to conveying storm water into the various storm water treatment and infiltration devices and reduces the rate of flow into the wetlands during all storm events. Solar shed aids in keeping run-off clean. Management system designed with watershed in mind.

Protecting adjoining residences doesn't apply because residences are across I-95, none to be impacted. Second criteria vehicular and pedestrian on site can't get more convenient because covered walkway to Applebee's. Mass DOT has RT-1 and Rt-27 jurisdiction so they will work with them to make it as good as possible without reengineering whole intersection. Mass DOT won't even address until all permits are in place. Ample area for guest drop-off. Large loading area in back. Ample parking. Applebee's has been consulted regarding traffic patterns within the site. All parking is contained on site, no street parking.

David Johnson, engineer, has met with both Sharon and Walpole town engineers. He walked Board thru Walpole Storm Water Treatment plan details and explains that Walpole section is a high point and water runs into a Downstream Defender water treatment system. Applebee's drainage goes into their own drainage infiltration system. Not clear why Sharon site is even in ground water protection district. The Sharon portion is a little more extensive since it is taking roof run off and run off from high point and pavement. Series of catch basins collect and then it goes through normal deep sump and then into proprietary systems which further reduce suspended solids in the run off, and then into plastic chambers that mitigate rate and volume of runoff.

Mr. Brahmahari wants Peter OCain, Town Engineer, to weigh in on plan; he knows Sharon Conservation Commission is weighing in, but we have Engineering Department for project like this. Mr. Brahmachari requests applicant obtain a comment letter from Mr. OCain showing his agreement with plan details.

No abutters present. Applicant's attorney willing to submit a Decision when available.

Applicant asked to continue hearing to September 11, 2019.

Minutes:

Mr. Brahmachari moved to approve the minutes of May 22, 2019. Mr. Garber seconded the motion. The Board voted 4-0-0 to approve it.

It was moved, seconded, and voted to adjourn. The meeting adjourned at 8:45 P.M.

Respectfully submitted
