

SHARON ZONING BOARD OF APPEALS MINUTES OF MARCH 11, 2020

A regular meeting of the Sharon Zoning Board of Appeals was held on Wednesday, March 11, 2020, at 7:00 P.M. in the Second Floor Hearing Room at the Sharon Community Center, 219 Massapoag Avenue. The following members were present: Abe Brahmachari, Joe Garber, David Young, Samuel Reef, and Steve Cohen. Steve Weiss is not present. Upon hearing who was involved in Case No. 1855, Mr. Reef recused himself from the Case #1855 hearing.

7:04 P.M. Paula Szulc, Case No. 1854, 15 Franklin Road –Continued Hearing

Applicant emailed request for continuance on March 7, 2020. Date to be set by March 20, 2020. [NOTE: This meeting has since been continued to October 14, 2020 at the request of the applicant.]

7:06 P.M. Ninety-Five LLC, Case No. 1855, “Sharon Gallery”, 144 Old Post Road – New Hearing

Present for applicant were: applicant’s attorney Robert Shelmerdine, Esq., Sharon, MA; David Spiegel, Ninety-Five, LLC, Norwood, MA; Matthew Smith, PE, PLS Norwood Engineering Co., Inc., Norwood, MA; Kenneth Cram, P.E., Bayside Engineering, Woburn, MA.

The applicant provided the following materials with application: 1) “Phase 1 Sharon Gallery 144 Old Post Road, Sharon, MA” Site Plan dated August 23, 2019; 2) “Stormwater Calculations 144 Old Post Road, Sharon, MA” dated September 12, 2019, revised January 14, 2020; 3) “PCA Market Basket, Sharon MA DSM Realty Design Concept” dated September 4, 2019, consisting of 11 pages; Architectural plans for “Sharon Gallery Workforce Housing –Retail, Sharon MA” dated August 5, 2019, drawn by Architects Collaborative Inc. Bignell Wakins Hasser; 4) “Traffic Impact and Access Study” dated January 15, 2019, prepared by Bayside Engineering, Woburn, MA; 5) Sign Package entitled “Sharon Gallery” dated February, 2020, prepared by Viewpoint Sign and Awning; 6) “Technical Memorandum” dated February 10, 2020, prepared by RKG Associates, Inc.; 7) “Master Plan” dated February 6, 2020, including future concept Phase 2; 8) Zoning Requirements Business District D table. Documents are available for viewing at DPW building.

Mr. Shelmerdine summarized history of project since it was Sharon Commons project. Sam Reef, Alternate Member, recused himself from this case after hearing who was involved in the development project. From 2007 to 2013 they received eleven decisions and approvals. Mr. Spiegel purchased Sharon Commons. The model and marketing changed to add a layer of residential in 2013. Anchor tenant and design worked on over the last 6 to 9 months.

Mr. Shelmerdine provided an overview showing project design over a Google map image of the 59-acre parcel of land and surrounding area. A development will be going up across the road for 192 units of rental, that is separate. The 59 acres are same as original permitting approvals. Plan is conceptual master plan and they are here on Phase One tonight as shown in Phase One

of the Norwood Engineering Site plan. The egress to South Walpole Street must include a gate to only be used by Fire Department. Have architectural drawings for anchor tenant, 80,000 square foot Market Basket. A retail/housing two-story building will have retail on first floor and 24-residential apartments on second floor with 25% affordable housing. A total of 156 condominiums are located in this Phase One as well with 12.5% to be affordable. Design also includes branded discount retail store and shops. (Shown via sheet one of three Site Overview Phase 1 Sharon Gallery 1/28/2020).

Also, an MOU (memorandum of understanding) development agreement was entered into by Mr. Spiegel in order for Select Board to support the town warrant article to support mixed use residential development. One of the restrictions was that this site be 750,000 square feet of development total: 250,000 square feet residential and 500,000 square feet commercial.

This site is subject of two sets of MOU of development agreements and the March 6, 2007, has been complied with and satisfied, but there are linger obligations this developer will make. A total of 35 acres of bogs are to be deeded to the Conservation Commission as part of the agreement. And, no access allowed for Laurel Road and Mitchell Street.

Market Basket will own their own property with cross easements.

Mr. Brahmachari read the Legal Notice. Because the project is in District D, it triggers a little more review. So, in addition to review by ZBA, Sharon Planning Board, Conservation Commission, Board of Health, a peer review firm PSC; and a Design Review committee will convene. Tonight we will hear from consultants, residents, and Board members. Plan is to get the comments by early next month. If that happens, we will review comments on April 8, 2020. And if any concerns can be addressed then, a vote may take place on April 22, 2020.

Mr. Brahmachari read a letter from James Wright, Fire Chief, dated March 6, 2020; a letter from Kevin Davis, Agent of the Board of Health, dated March 10, 2020; and acknowledged but did not read a draft review supplied by Town Engineer, Peter OCain on March 11, 2020. It should be noted that Mr. Greg Meister, Conservation Administrator, did not supply a letter but has been included on link for review.

The cost of the peer review will be covered by the applicant. Thomas Houston, AICP, PE, President, Professional Services Corporation, PC will be formally engaged to do peer review and is present at tonight's meeting.

Mr. Brahmachari said Design Review Committee update is that he hopes to have the group set up by early next week. A special online meeting may be convened to formalize the group. Mr. Shelmerdine is meeting separately with Board of Health and Conservation Commission. They have been in contact with town engineer; jurisdiction is with the ZBA not the Planning Board so they have not presented there.

Mr. Shelmerdine noted that cranberry bogs, potential well head property, and another parcel of property that is wetlands have been or are intended to be conveyed to Conservation Commission. Mr. Shelmerdine showed traffic flow and noted it is State Highway layout done in 1961.

Ken Cram, Bayside Engineering, Woburn, MA, road engineer, said intent is to build the road so the intersection bifurcates the Shaw's plaza parking lot. They have an agreement with 700 South Main Street owners. All of roadway there is State Highway. They are widening South

Main Street and several traffic lights are proposed; all were part of 2007-2013 permits attained. Mr. Cram showed proposed roadway and signal improvements on "South Main Street; 2/28/20 Sheet 1, Bayside Engineering". Current proposal, bulk of physical work is from I-95 south-bound ramps through the I-95 north-bound ramps for widening and realignment through Old Post Road and then through Gavins Pond Road and meet in existing conditions about 600-feet east of Gavins Pond Road. Signals added at Gavins Pond Road, Old Post Road, I95 South and I95 North ramps and a fifth signal just over in Foxboro at Mechanic Street and Oak Street. The five signals will operate as coordinated signal (system monitored by video so state traffic engineer responsible for signals will be able to look at system from his or her desk).

Mr. Cram explained the first entrance from highway will be only entrance for trucks going into Shaw's Plaza for delivery. Residents can still use this entrance; just no left turns. Most recently they had a short left lane going into Sharon Marketplace, but now they have a longer left-turn lane going back to Gavins Pond Road to handle traffic going into Old Post Road. Mr. Crum anticipates final comments and/or sign off from MASS DOT by the end of March 2020.

Mr. Garber asked if lanes reducing from double- to single-lanes on Old Post Road can flow. Mr. Crum said a typical two-lane road can handle 22,000 vehicles per day. So it will be similar to Gavin's Pond Road which will have a right- and left-turn lane added. Trees and median stay at Gavins Pond Road.

Mr. Cohen asked about where traffic will be coming from and Mr. Crum noted that there is info in the traffic impact and traffic study. Also, he said the concept was vetted through Massachusetts Environmental Policy Act and Section 61 finding issued by MASS DOT that tells them what they legally need to do for the state-controlled portion. Biggest impact will be in front of Shaw's. Design considered worst case scenario for traffic. Mr. Cram compared study counts and made double right turn lanes for each off-ramp of I-95. They looked at Oak Street to Bay Road signals.

Currently Heights Elementary pickup and drop off require people coming from center of town to take Moose Hill and then take a left to get vehicle into Height's Elementary pickup line. Mr. Young wants consideration to add signage for allowance of left turn for certain times of day.

Mr. Brahmachari asked applicant to make sure all documents are made available for review at: <https://drive.google.com/drive/folders/1eOx8-BITbMCQq23pn4V9EbsWhHicWdtT>

Bill Depietrie, President, Capitol Group Properties, Southborough, MA expressed concern about this project taking some of their parking and reconfiguring some of their parking lot at 700 South Main Street and noted that although CGP had worked with the developer and his attorney previously the agreement has expired and he has not heard from the applicant in four or five months. He is concerned about spaces lost and leases that require him to keep a certain number of spaces and he feels this has been forgotten off the wayside. Mr. Shelmerdine responded that they had a three-way conversation with Town Counsel, Capital Group, and the developer. Mr. Shelmerdine stated that Mr. Depietrie would be his first call in the morning. Mr. Shelmerdine also said they redesigned the highway as to what Capitol Group Properties consultants wanted. But, Mr. Depietrie is concerned regarding the need for the applicant to come on to the property and regarding maintaining number of spaces for tenants per lease requirements.

Kelly Killeen, PE Section Manager, CIIA, Norwell, MA, representing the abutter with the 192 Residential Units would like status and phasing. Phase 1 presented here is intended to be built

all together. The million dollars the town received is related to these improvements. They expect a year for completion.

Mr. Garber asked about use of eminent domain. Mr. Shelmerdine said the taking runs across South Main Street. So in November of 2013, the town initiated takings. There are three kinds of takings: One was a taking in fee (red); and temporary construction easements (yellow) and aerial easements for overhead wires are others and whatever expense the town would incur would be paid by developer. Most is temporary construction easement. Even with land from town, Mr. Depietrie says they have a net loss of 65 spaces because they can't park in back due to well.

Mr. Spiegel presented "Market Basket Sharon MA Design Concept 09/04/19 page 2". Company considered design in keeping with the town. Entrance closer to South Main Street is mostly for trucks. Extensive design work has been done. Then Mr. Spiegel describes the mixed use building. Retail designed to subdivide as necessary as retail rentals come in on the first level. Two rows of apartments on second floor with elevator so it's handicap accessible. Parking garage below level to keep residents out of shop parking at grade so customers have access to retail shops. Back side of this building faces Route 95. Front of building is mix of brick and glass and back side is glass on second floor and there are emergency exits on the first floor. Mr. Young wants to know if there is any room for walking paths and green space? Mr. Spiegel said they have renderings with eating areas outside and green space on north and south sides, but back of the retail building is wetlands, so not able to do anything there.

Keith Scarfo, 189 Old Post Road, confirmed there is plenty of signage to keep people from using South Walpole for access. Homes have new water service and water mains paid for by developer.

Kelly Killeen has additional comments. While some of his company's drawings are still being used the company has not been site engineer in the project since 2013; although there are documents that reflect their name, they have no involvement with the project. He is concerned about circulation on drive-thru as seems there is no bypass on it. His clients view of the project will be from across Old Post Road and he wants circulation addressed in Phase 1 decision.

Mr. Kelly mentioned original project focused greatly on open space and Business District D regulations calls out certain green space percentages and he isn't seeing it. One comment he has for Phase 2 is the residential is on the leech field; Article 7 of Sharon Board of Health bylaws are pretty stringent about 100-foot offsets. He has a second spot too. Applicant interjected that he thinks that is incorrect, but will look into it.

Mr. Kelly sought clarification on landscape strip variance request. Concerned that encroaching further into setbacks means more pavement and he wonders if they can supplement green space. Spacing for greenery has certain measurements of how much needs to be there. Mr. Brahmachari asked Mr. Smith to outline the two special permits and variance being requested.

Mr. Smith spoke about shape and topography of the land. Ponds and wetlands don't allow them to build any closer to Route 95. They are very tight on Old Post Road site. There are bordering vegetation wetlands and isolated wetlands. Because they are so tight there and have to have rows of parking, on Old Post Road portion of site they get within the 20-foot landscape strip causing them to need a variance for the landscape strip.

Also, one small building is situated 25 feet from Old Post Road rather than 50 feet because they want a "U" shape flow for the shops and that requires a variance.

Finally, they want variance for 4.4 percent rather than 5 percent of Market Basket lot to be landscape islands. Mr. Smith says they are only building 43 acres of the approx. 60 acres and there will be 3 conservation restriction acres totaling 32 acres and huge bog area in the front. So, overall there will be a lot of open space.

Mr. Shelmerdine spoke to special permit request for an encroachment into the 100-foot wetlands buffer. They are not sure they need that special permit, but will look into it.

Mr. Smith showed boards for engineering specifics using Site Utilities Phase 1 Sharon Gallery plans from 1/28/2020. They did familiarize themselves with the plans that had been approved previously and have used a lot of the concepts Mr. Killeen had in his plans, and concepts and drainage will be very similar to what it was in the past plans. Uses outlet structures similar to parking lot and gutter drainage that was used in the past. Drainage collection and treatment units are underground so runoff is recharged into the ground/bogs. Treatment units also remove any oils or sediment on the parking lots. Goal is to infiltrate water into the ground, clean up the water, and make sure the rate of flow is not any faster. They are in the wetland buffer for two of the buildings (Mr. Shelmerdine interjected that some isolated wetlands are not subject to the wetlands bylaw. The state bordering vegetation wetlands are located elsewhere). Mr. Smith continued by discussing is a waste treatment system with absorption systems approved by DEP and it is all permitted currently. Maximum capacity is 60,000 gallons per day. Compared to the size of the treatment plant for the Salmon Health 103-bed assisted-living complex and 268-bedroom residence apartments has 44,000 gallons per day. Mr. Smith confirmed design can support potential hotel in Phase 2 (page7).

Mr. Smith showed utility water as looped waterline and connections (page 8) to Old Post road. They took into account the utility design that was previously approved. They understand it's a new review and submitted a whole set of drainage calculations. Water main from South Main Street put in by developer is 12" and new.

The developed property itself is 59 acres. They have MOA from 2007 obligation to turn a separate 35 acres of bogs over to the town. But if bogs are needed for development related issues, for area ratio, buffer issues, they may retain some portion of the bogs. But any acres they keep they have a restriction they can't develop. Of the 59 acres, 43 acres are being developed. About 80 acres will be green or untouched per Mr. Smith.

Keith Scarfo, abutter, asked whether fence in current location could be maintained and developer said yes. Regarding developer side of fence being tree-lined developer confirmed fence has tree line on design. Mr. Spiegel said later in project fence can be replaced because it is a little tired.

Mr. Shelmerdine noted that they have a new ground water discharge permit. There is a Natural Heritage Site with a turtle habitat and so they are finishing up Heritage Permit requirements and hope to be done in next month.

David says they have a major tenant, but he doesn't have enough tenants to come in with full proposal. It is very visible from the highway. Other than Market Basket, no other tenants have been identified at this time per Mr. Spiegel.

Mr. Brahmachari proposed a motion for establishment of consultant fees for Sharon Gallery Project for Tom Houston, Professional Services Corporation, PC, Foxboro MA, to do a peer review in accordance with the provisions of General Laws, Chapter 44, section 53G, the rules of this Board, and the terms of the representations made to this Board by or on behalf of (developer/applicant), the Board votes to engage the services of Professional Service Corp., PC to act as the peer review consultant to the Board with regard to (developer/applicant) proposed development on property on 144 Old Post Road, commonly known as ("the "project"). The board determines that the initial sum of \$28, 000 should be placed with the Town Treasurer to be expended in accordance with the provisions of G.L. ch44, section 53G.

Motion seconded by Mr. Garber.

Board votes unanimously 3-0-0 (Brahmachari, Cohen, Garber).

Bob Shelmerdine would like copies of any Mr. Killeen's comments. He is aware of link to documents for the case.

Mr. Shelmerdine will provide letter of continuance to Ms. Schustek for meeting April 8, 2020, Sharon Community Center at 7 PM.

Minutes:

Mr. Brahmachari moved to approve the minutes of February 26, 2020. Mr. Garber seconded the motion. The Board voted 5-0-0 to approve it. (Brahmachari, Garber, Cohen, Young, Reef)

It was moved, seconded, and voted to adjourn.

The meeting adjourned at 8:54 P.M.

Respectfully submitted

Approved: April 8, 2020