

SHARON ZONING BOARD OF APPEALS MINUTES OF WEDNESDAY, APRIL 22, 2020

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, April 22, 2020, at 7:00 P.M. The following members were present as established by roll call: Abe Brahmachari, David Young, Joe Garber, Steve Cohen; Sam Reef. Not present: Steve Weiss. Mr. Brahmachari opened meeting noting reasoning for virtual meeting and procedural ground rules.

7:03 PM- Jane & David Sullivan, Case No. 1857, 2 Cow Hill Road – New Hearing

Also present were: Nancy Allison, architect, Newbridge Architecture, Sharon, MA; Jane and David Sullivan, applicant.

The applicant provided the following materials with application: Plot Plan by Charette Land Surveying, Mansfield, MA, and undated architectural plans including sheet numbers A-1 thru A4.

Also additional/updated documents: None

Mr. Brahmachari read the Legal Notice, a letter from Kevin Davis, Agent of the Board of Health, dated February 26, 2020, and he noted that a letter from the Conservation Administrator had been requested and needed to be added to the file.

Ms. Allison explained the applicant would like to add an in-law suite. They need special permit because they are in Rural District 1 and this area requires 60,000 square feet and their lot is just over 40,000 square feet. Zoning allows an additional unit, but requires it goes thru this process. District allows a max of 15% lot coverage; the existing covers 6% and with addition will cover 8% so still preserving substantial open space. There are no encroachments on the required setbacks.

Ms. Allison also stated that the single family home is a split level; architectural view of back on A-4. On plot plan a one-story, approximately 800-foot rectangular addition is shown behind the garage. Existing house is a three (3) bedroom house. They look to remove the door and a section of wall to make bedroom 2 on A-1 more of an office alcove as shown on A-2. From existing entry one can go left into main portion of the house or go straight into the addition. They have worked with the Building Inspector to make sure the in-law unit has no separate street entrance. The doorway from the back bedroom just opens to the garden.

Mr. Garber said nothing prevents a path to the front and he thinks that the closet needs to be eliminated along with the bedroom, or it could easily become a bedroom again. Architect pointed out that closets do not make a bedroom. Jane Sullivan, applicant, said that the closet isn't necessary, but

most of the house is alcove, no linen closet, so they hoped to preserve the closet space. Currently, the second bedroom space is used as an office

Mr. Brahmachari noted the closet is a concern. Mr. Garber also noted the rear entry disqualifies it as an in-law because it is considered a second private entry. The separate kitchen in the area makes it an in-law.

Architect asked where in the Zoning bylaw does it require a second entrance? Does it mean there can't be any other exterior doors? Mr. Brahmachari said requirement is that occupants have access to the patio only from outside the living area of the in-law area -- Section 4211.c. So architect asked if having access via what is now a double-window would be acceptable, so before enter in-law there is door access to the backyard.

Architect said Mr. Kent didn't have concerns about second entry as is and that they don't encroach on any setbacks. They are also well under the impervious surface requirements, so the project has not introduced any new nonconformity. The septic is a little to the right of where it says Lot 52 on plot plan. Ms. Sullivan stated the pool was filled last fall and the addition will come to the edge of where pool used to be. Mr. Brahmachari noted that there are no dimensional issues since addition does not go into the setback. Mr. Garber and Mr. Brahmachari noted the doorway is an issue. Mr. Cohen disagreed since it is a long walk around.

If Board doesn't allow a door, architect will have to address with her client where to put the entrance to the backyard. Mr. Reef noted replacing double window with door in the mudroom is leading right into kitchen of in-law suite.

Mr. Reef and Mr. Garber said they can't take a vote without a new plan. Mr. Young, regarding the backyard door, stated that the rear suggested move is a better second entrance than the bedroom entrance currently proposed. Mr. Reef would have reservations about both locations. Mr. Garber added that in the past a Deborah Sampson in-law had an issue similar to this. Mr. Brahmachari said if the 18-square-foot by 39-square-foot rectangle addition does not have any entry it satisfies the zoning bylaw.

Mr. Sullivan asked about fire code regulations if they don't put a door in the bedroom or in the mudroom where double window is currently suggested. Architect does not believe that would be a fire code violation because they have windows to get out. Emergency egress is not for that kind of service; they are only talking about a fire. Current design allows fire personnel to come in and help them through three-foot doorways.

Mr. Reef pointed to Zoning Regulations-- 4210 Dwelling Conversions, and specifically 4211 c 'that the additional unit shares a common entrance in the existing structure'. Mr. Sullivan asked aren't there other laws that prevent rental of this type of space? Mr. Garber stated that the problem is things done under the radar.

Architect sought clarification as to option of door in the rear of the entry way and asked if some Board members find the location acceptable and some do not? Mr. Reef agrees it is accurate. It is a three-member vote. Mr. Cohen explains that slider is a non-starter. Architect wants to know if they have votes to support a door in mudroom area. Mr. Garber in reviewing the code would have to agree with Mr. Reef that the door in the back would have to go and the only entrance to the mudroom would be from the front of the hallway.

Mr. Young wants to know if there is anything that would provide access from the garage for this. Mr. Brahmachari says whole idea is you enter the entire house through a common entrance. Garage door to house is being removed. They are trying to minimize steps. Mr. Cohen wants to know if garage is an option.

The Sullivans want to know every option before going to the design table. Ms. Sullivan said doorway is only for her parents to access the backyard, it will be a long way for them to access that area otherwise. Mr. Garber said it doesn't matter what you are doing now. It is about what can happen down the road. ZBA has had difficult mobility issues cases per Mr. Garber, including a past case he cited from Wilshire Road with wheelchair accessible van.

Applicant asked to continue the hearing to April 29, 2020.

Mr. Brahmachari made a motion to continue 2 Cow Hill Road, Case No. 1857 to April 29, 2020, per the applicant's request. Mr. Garber seconded the motion. The board voted unanimously by roll call to approve the motion, 5-0-0 (Brahmachari, Garber, Cohen, Reef, Young).

Ms. Schustek will send form for continuance to Ms. Allison so it can be filled out, returned, and posted at Town Hall tomorrow.

8:06 PM--Bahrom Maksudov, Case No. 1852, 34 Sandy Ridge Circle—Continued Hearing

Mr. Brahmachari made a motion to withdraw, Case No. 1852, 34 Sandy Ridge Circle without prejudice per the applicant's request in writing dated April 10, 2020. Mr. Garber seconded the motion. The board voted unanimously by roll call to approve the motion, 5-0-0 (Brahmachari, Garber, Cohen, Young, Reef).

8:08 PM--Optima Hospitality Group, LLC, Case No. 1845-B, 2R-4R General Edwards Highway/990 Boston Providence Highway

Also present was: David Wluka; Wluka principle from Optima Hospitality Group, LLC, Sharon, MA

The applicant provided the following materials with application: page 2 of 10 Revised Site Plan dated March 7, 2020.

Also additional/updated documents: Erosion and Sediment Control Plan, 900 Boston Providence Hwy., revised March 7, 2020. The full set of plans was submitted to Town Engineer, Peter OCain by applicant and submitted electronically to ZBA. Also, a letter from Conservation Advisor, John Thomas was submitted.

Mr. Brahmachari read the Legal Notice.

Mr. Wluka provided background for the Board and explained that the original plans were approved by the Sharon Conservation Commission, ZBA, and Walpole Conservation Commission. Because the Walpole Zoning Bylaws for the property limits height to four stories we had to go to the Walpole ZBA for

a height variance which we were told ought to be perfunctory as there are a number of five story buildings in Town. The five story plan was a response to the requirement of the Walpole Water & Sewer Commissioners that most of the building itself had to be in Walpole in order for them to provide us with water and sewer service.

Mr. Wluka continued to explain that after several Walpole ZBA hearings where a number of issues and questions – most not related to height – were responded to, we went before the Board on February 5th hoping to get a decision. We came with counsel, our engineer and our traffic engineer whose presence they requested – again not having anything to do with height. Attending in addition to us (not at our request) were the following Walpole Town staff: Town Administrator, Chair of the Selectmen, Police Chief, Fire Chief, Building Inspector and Town Counsel. Each testified in support of the variance when it related to their area of responsibility. Our counsel found and presented case law supporting our application. Town Counsel concurred and stated clearly that he saw no reason why the height variance could not be granted. When the vote came the Chair and one other member voted against. We needed 4 out of five but only got three – with no reasoning or explanation. In the ensuing weeks Walpole, through their Town Counsel, devised a workaround that would permit us to move forward with a four story building, obviating the need for a variance. Hence our need to come back to the Town of Sharon Conservation Commission and ZBA with the modified plan.

On April 16, 2020, the Sharon Conservation Commission voted unanimously to accept this four story plan as a substitute for the original five story plan approved by them (and by the Sharon ZBA). A letter from conservation advisor, John Thomas, confirmed to the ZBA that vote. Ms. Schustek forwarded the letter she had just received via email to the Board members during the meeting.

Board sees no issues with change to a four story building that is 50 feet longer. Parking looked good. Applicant requested that the ZBA just substitute the new plans and all other conditions remain the same. They are in compliance with parking. They are out of compliance with Walpole fire and water, but Walpole Town Counsel created a work around. Town of Sharon now has more of the hotel property in Sharon, so Sharon will receive more real estate taxes.

Mr. Wluka said no issues relative to: traffic, drainage, or anything and not asking for any changes to conditions of the permit. Nothing else that effects the Town changed. Mr. Brahmachari read the Conservation Administrator, John Thomas' letter dated April 22, 2020, which noted the fifty foot building expansion would be within an area originally designated for parking. The Conservation Commission made a motion 6-0-0 to accept the revised plans presented to the Commission for the Optima Hotel Project, (DEP File No. SE280-0612).

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 5-0-0. (Brahmachari, Cohen, Garber, Reef, Young).

Mr. Brahmachari made a motion to modify the special permit No. 1845 issued on September 11, 2019, by replacing site plan #990 Boston Providence Hwy, Walpole/Sharon, MA consisting of ten sheets dated July 1, 2019, with site plan #990 Boston Providence Hwy Walpole/Sharon, MA consisting of ten sheets dated July 1, 2019, and revised March 7, 2020, with the original conditions remaining as is. Mr. Garber seconded the motion and the original conditions will remain.

The Board voted 3-0-0 in favor of the plans. (Brahmachari, Garber, Cohen). Mr. Cohen voted with a raise of hand because his microphone was out.

Minutes:

No minutes for approval this evening.

It was moved, seconded, and voted to adjourn. The meeting adjourned at 8:29 PM.

Respectfully submitted

Approved April 29, 2020