

SHARON ZONING BOARD OF APPEALS MINUTES OF WEDNESDAY, NOVEMBER 18, 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, November 18, 2020, at 7:00 P.M. The following members were present as established by roll call: Abe Brahmachari, Joe Garber, Steve Weiss, David Young, and Sam Reef. Mr. Brahmachari opened meeting by reading Covid19 protocols per the Governor of MA and procedural ground rules. Kris White, Building Inspector, was also present at the meeting.

7:00 PM -- Paula Szulc, 15 Franklin Road, 1854 – Continued Hearing

Background: This case was filed on February 7, 2020; a legal ad ran in the Times Advocate on February 26, 2020, and March 4, 2020 and abutters were notified of the upcoming hearing; a continuation request letter from the applicant due to coronavirus was filed with the town clerk on March 16, 2020; the board voted to accept the applicant's request for continuation on April 15, 2020, and continued the case to October 14, 2020. Town counsel advised re-noticing the hearing due to the length of time since applicant filed, so the case was continued to November 4, 2020, and then November 18, 2020, while legal posting and abutter notification happened. The legal ad was re-posted in the Times Advocate on November 4, 2020, and November 11, 2020.

Present for the applicant: Paula and Marc Szulc, applicants.

Documents included: application filed on February 7, 2020, plot plan by Paul J. Berger, Inc., Stoughton, MA, but date is not reflected on document, and architectural plans by Design Plus, Rehoboth, MA, dated August 23, 2019.

Mr. Brahmachari read the legal notice; a letter from Kevin Davis, Board of Health agent dated February 10, 2020; and a letter from John Thomas, Conservation Commissioner, dated October 19, 2020.

Applicant, Ms. Szulc, proposed converting an enclosed porch above the existing garage to a bedroom, and combining two of the current bedrooms into one so property remains a three bedroom. Current bedrooms are 130 sq. foot; 87 sq. foot; and 125 sq. ft. Plans also included the addition of a bathroom. An existing wall would be removed so two small existing bedrooms can be combined into a single bedroom. Mr. Szulc showed plans including seven 2' x 4' pillars proposed to reinforce the new bedroom from under the garage. Mr. Szulc reviewed septic.

This is not a typical variance case because they are not changing the bulk or the height of the property. Chair noted the nonconformity is 24 feet in a 30-foot setback.

Ms. Szulc said the historic record is murky on when garage and porch above the garage were added, but sometime after house was built, the garage was enclosed and the 3-season unheated porch was added on top. If it was built today, it would be a variance, but it is not a new addition they are converting a three-season to a four-season space.

Mr. Garber would like a special condition that the existing wall between the two smallest bedrooms must come down so the house remains a three-bedroom house when the room above the porch is enclosed.

Mr. Weiss noted town records show property as a two-bedroom home. A failed septic inspection has property as two-bedroom in 2008. Ms. Szulc noted new septic installed in 2008 with 330 -gallon flow has septic documents indicate a three-bedroom home. Owners said the house was advertised as a three-bedroom home in 2016. Some previous listings show it was advertised as a two-bedroom house per Mr. Weiss. The 2008 septic and 2016 inspection noted it was a three-bedroom house, as well as the BOH document that approved the project was for a three-bedroom house. But, Mr. Weiss doesn't see anything in the file showing change to three-bedroom septic. They will need a confirmation that the home is in Norfolk Registry of Deeds as a three bedroom because it is that way on 2008 septic.

One of the existing bedrooms has a closet and the other has an open alcove that serves as a closet. In the new plan they are not sure about the closets. Mr. Reef had concern that even though plan is for one larger bedroom now, it can be converted back to two bedrooms by any future occupants since there are two closets and wanted a special condition put in that it is to remain a three-bedroom house.

ZBA members requested a plot plan showing date of the surveying and also asked the applicant to verify the number of bedrooms actually recorded at the Norfolk Registry of Deeds. (Applicant searched registry of deeds online during meeting and noted to board that home is listed as a two-bedroom home there and she asked next steps.) If home is a two bedroom, Mr. Brahmachari needs a clarification from the Board of Health and from the Conservation Commission that the addition of the bedroom wouldn't be a concern. Mr. Garber suggested applicant can go to the Town of Sharon Assessors office to see if a filing possibly didn't get to the Registry of Deeds, as the information may be in the town vault.

No abutters present.

Applicant requested to continue the case.

Mr. Brahmachari motioned to continue 15 Franklin Road, Case 1854 to December 9, 2020. Seconded by Mr. Garber. Unanimous roll call: 5-0-0 (Garber, Brahmachari, Weiss, Young, Reef).

7:55 PM -- Christopher M. Kirby, PE, 10 Pine Road, 1865 -- New Hearing

Present for the applicant: Raymond Uritesco, owner; Christopher M. Kirby, PE, CM Kirby Engineering, PLLC, Norwood, MA

Documents included: application filed on October 15, 2020, plot plan by Charette Land Surveying, Mansfield, MA dated August 24, 2020, and architectural drawings by CM Kirby Engineering, PLLC, Norwood, MA dated September 11, 2020. Chair read the legal notice as it appeared in the Times Advocate on November 4, 2020, and November 11, 2020; a letter from Kevin Davis, Board of Health agent dated October 28, 2020; and a letter from John Thomas, Conservation Commissioner, dated October 20, 2020.

Applicant sought relief to install a 24- x 23-square-foot detached two-car garage with a storage space above on a nonconforming lot in a groundwater protection district. Plot plan shows septic relocation which has been approved through Board of Health, but septic will only be done if ZBA approves project. Four galleys of the septic system will be moved to get the ten-foot separation requirement. Applicant reviewed architectural drawings as well. Plot plans don't reflect distance between the face of the garage and the rear of the home. An at grade deck is being removed, and a stone patio will be put on the rear.

Mr. Garber noted plot plan needs to show the distance (minimum 10 feet needed) between the new free standing structure and the existing structure and septic system, and from the structure to the property line. Applicant said second floor will be used for storage, and may be used as a bonus room for owner's exclusive use. No bathroom, no water to that detached garage.

Abutter comments: Wilbur Edwards, 23 Pine Road, has no objection and thinks it is a nice presentation, so he is in favor. Amy Bagdonas, 6 Pine Road, asked how driveway was curving around. Mr. Kirby responded that the driveway will not extend past the garage and it is 16 feet wide, so same as garage. There is lawn and they are trying to keep the tree in place, that is the reason for the curve per Ray Uritesco, owner. Philip Carmody, 27 Chestnut St. has no objections to the garage.

Chris Kirby requested to close the case 1865.

Mr. Brahmachari motioned to close Case 1865, 10 Pine Road. Seconded by Mr. Garber. Unanimous roll call: 5-0-0 (Garber, Brahmachari, Weiss, Young, Reef).

Mr. Brahmachari motioned to approve Case 1865, 10 Pine Road as shown in application filed on October 15, 2020, plot plan by Charette Land Surveying, Mansfield, MA dated August 24, 2020, and architectural drawings by CM Kirby Engineering, PLLC, Norwood, MA dated September 11, 2020, with the special condition that the applicant must provide a revised plot plan showing the distance from the back of the house to the new garage as at least ten (10) feet. Mr. Garber seconded. Roll call vote approved unanimously, 3-0-0 (Brahmachari, Garber, Weiss).

8:18 PM -- Four Daughters Compassionate Care Inc., 1200 General Edwards Hwy, 1866 – New Hearing

Present for the applicant: Joel Fishman, Esq., attorney for the applicant, Stoughton, MA; Bill Buckley, Bay Colony Group, project engineer; Paul Psenka, Psenka Architects, project architect; Stanley Rosen, clinical director and community liaison for Four Daughters Compassionate Care Inc., representing the applicant.

Documents included: an email from John Thomas, Conservation Commissioner, dated November 10, 2020, noting that he discussed with the applicant their responsibilities for closing out the Conservation Permit next spring but has no concerns with what it proposed; civil drawing Sheet No. 3 revised on September 25, 2020, showing additional concrete pad and newly out of the back drive; and architectural sheet numbers A-1 and A-2 both revised September 24, 2020.

Mr. Brahmachari read the legal ad as it appeared in the Patriot Ledger on November 4, 2020, and November 11, 2020; Letter from Kevin Davis, Board of Health dated November 2, 2020.

Mr. Fishman reviewed the background including: Feb 1, 2017 Case 1797 issued special permit for the operation of a medical marijuana dispensary at the property for the cultivation and sale of medical marijuana; December 18, 2018 Case 1830 after voters of town approved the cultivation and sale of recreational marijuana the board issued a special permit for the operation of a marijuana establishment at the property for the cultivation and sale of recreational marijuana and in the same decision the board approved the cultivation and sale of medical marijuana for an additional two year period until February 1, 2021; May 9, 2019 Case 1840 board confirmed approval of registered marijuana dispensary and marijuana establishment at the property but eliminated the retail operations from the property since on the same day it approved the retail operations at 2-4 Merchant Street which is the contiguous property. Mr. Fishman requested renewal of special permits for cultivation of medical and recreational marijuana because unlike most special permits which are indefinite, the marijuana bylaw in Section 3650 C 2 required any special permits board issues for marijuana establishments to be renewed every two years.

Some design and layout issues, and Covid, delayed construction but were resolved. The applicant expected to complete the project Spring 2021 subject to continuing Covid concerns and weather.

Mr. Buckley reviewed minor changes to site plan: amount and number of cooling equipment needed is three times initial expectations because of heat generated by units. Dumpster pad and driveway moved away from building, loading area leveled to make room for chiller pad. Impervious surface increased three percent, but they didn't move into the buffer zone or change drainage. Building size and number of parking spaces remained the same. A chiller pad is also shown on North side of building; three equipment pads total.

Mr. Psenka showed some reallocation of space inside the building. As the project progressed, need was for more manufacturing space as opposed to flowering and growth space, so manufacturing area and a drying area. Second floor space reallocated from extraction kitchen and storage to now being defined as more processing/laboratory space.

Chair asked precedent of receiving more than one two-year extension. Mr. Fishman said this is a very unusual provision in the bylaw, but he interprets bylaw to mean every two years they have to go back before zoning and get an extension. Mr. Fishman added that he checked with town counsel for clarification, and as long as they apply before the two years is up they are meeting the requirement.

Construction is 50 to 60 percent complete.

Architect said no change to footprint and/or height of the building from original submittal. And from civil plan change in percent pervious is from 41% to 44% lot coverage, per bylaw states can't be more than 50% impervious.

Requesting a two-year extension until February of 2023 and the other will be extended until December 2022. But changes in civil plan and architectural plans are minor changes per Mr. Fishman and if board is inclined to extend two special permits, it can be with the minor modifications presented tonight per Mr. Fishman.

No abutters present.

Mr. Fishman will write the decision and have the document reviewed by town counsel and ZBA secretary before it is provided to board for signature. Board members agreed.

Mr. Brahmachari made a motion to close Case 1866, 1200 General Edwards Hwy. Mr. Garber seconded. Roll call approved unanimously 5-0-0 (Brahmachari, Garber, Weiss, Young, Reef)

Mr. Brahmachari made a motion to renew the special permit for the marijuana establishment until December 18, 2022, and renew the special permit for the registered marijuana dispensary until February 1, 2023, with minor modifications as presented in today's discussion and indicated in civil drawing Sheet No. 3 revised on September 25, 2020, showing additional concrete pad and newly out of the back drive and architectural sheet numbers A-1 and A-2 both revised September 24, 2020.

Mr. Garber seconded. Board voted to approve 3-0-0 (Brahmachari, Garber, Weiss).

Minutes Approval

Mr. Brahmachari motioned to approve the ZBA minutes from November 4, 2020. Mr. Garber seconded. This vote was by roll call and approved unanimously 4-0-0 (Brahmachari, Garber, Weiss, Young). Mr. Reef abstained because he did not attend the November 4, 2020 meeting.

Member asked protocol regarding answering general inquiries from residents regarding zoning board approval. Consensus that resident inquiries should be directed to the building inspector, not answered by ZBA members.

It was moved, seconded, and voted to adjourn.

The meeting adjourned at 8:55 P.M.

Respectfully submitted

Minutes approved: December 9, 2020