

SHARON ZONING BOARD OF APPEALS MINUTES OF WEDNESDAY, JANUARY 13, 2021

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, January 13, 2021, at 7:00 P.M. The following members were present as established by roll call: Abe Brahmachari, Joe Garber, Steve Weiss, David Young, Sam Reef. Mr. Brahmachari reading Covid19 protocols per the Governor of MA and procedural ground rules.

Also present from the town: Kris White, Building Inspector; Fred Turkington, Town Administrator, Lauren Barnes, Assistant to the Town Administrator, Melissa Imbaro, Admin. Assistant to Select Board, Dick Gelerman and Jeffrey Ugino, town counsel, Gelerman and Cabral, LLC and Select Board members Emily Smith-Lee, Bill Heitin and Hanna Switekowski.

Mr. Gelerman suggested to Chair to advise 63 Cottage St, 1871 interested parties that a notice defect required consideration of continuing Case 1871 before Board moves to executive session. Direct abutters, Sanjay Hari and Jenny Brigham, 55 Cottage Street, interjected to say they are now willing to sign a waiver of notification. Ms. Schustek will forward waiver tomorrow, but Board can proceed with this hearing this evening based on Mr. Hari and Ms. Brigham's representation per Mr. Gelerman.

Mr. Brahmachari motioned for the Board to move into executive session. Mr. Garber seconded. Motion unanimous approved by roll call, 5-0-0 (Brahmachari, Garber, Weiss, Young, Reef). Board will return to open session at conclusion of executive session. Executive Session expected to last approximately 1.5 hours.

Select Board unanimously voted by roll call (Heitin, Switekowski, Smith-Lee) to move into Executive Session for the purposes identified by the ZBA with the intent that the Select Board not return to open session.

8:45 PM – Martin and Deborah Yarmush and Rubin Yarmush, 63 Cottage Street, 1871-- New Hearing

Present for the applicant: Deborah Yarmush, and her son, Rubin Yarmush, applicants; David Sharff Architect, P.C., Medfield MA.

Documents submitted included: application filed on December 3, 2020, Subsurface Sewage Disposal System Design by Outback Engineering Inc., Middleborough MA dated May 27, 2020; architectural plans by David Sharff Architect, P.C. dated October 30, 2020; also, updated documents submitted electronically included: mortgage inspection plan, Boston Survey, Inc., Chalestown, MA dated October 28, 2016; Subsurface Sewage Disposal System Design by Outback Engineering Inc., Middleborough MA dated May 27, 2020; Exiting Condition Plans at 63 Cottage by Outback Engineering undated.

Chair read the legal notice as it appeared in the Times Advocate on December 30, 2020, and January 6, 2021; a letter from Kevin Davis, Board of Health agent dated December 29, 2020; a letter from John Thomas, Conservation Commissioner, dated December 29, 2020, and a letter from the Historical Commission to Kris White, Building Inspector, dated January 6, 2021.

Applicant sought one finding and two special permits relative to a proposed new single family dwelling with an accessory in-law dwelling unit.

Ms. Deborah Yarmush said her son and his family will use Unit 1, and she will have smaller Unit 2. The units will be attached. Home is a two-bedroom, not a three-bedroom. She also has a single son and out-of-town guests who visit who would use the third room.

David Sharff, architect, shared screen showing Greek-revival house and detached garage in the back. Idea was to build house where there are already structures on the site and preserve the open areas in the back. Architect showed overlay of new structure over existing home. Applicants worked with Sharon Historical Commission (SHC) to preserve character of Greek-revival house and replicating idea that front door still faced Cottage Street. This door is common access to units 1 and 2, and includes a mudroom. In Unit 2 a den on the ground floor would be for guests, other members of the family and so on, then there are four bedrooms on the top floor for Mr. Yarmush's family in Unit 1. Unit 2, for the parents, has two bedrooms and two bathrooms. There is a common deck that both households can access. Both existing structures will be demolished.

The only entry to the in-law unit is the one through the first floor hallway. It is a solid foundation between the two basements, currently planned to be a concrete wall.

Architect shared rendering so board could view garages and curb view.

Board discussed four garages, impervious material, design as rendering is very close to existing, need for Sharon Historical Commission (SHC) further approvals, need for all other boards to sign off on the project before ZBA makes a decision. The ZBA is the last stop, per Chair. Along with two good letters from Board of Health and Conservation Commission. Applicant needs a clean letter from Sharon Historical Commission too.

Abutters Jennifer Brigham and Sanjay Hari, 55 Cottage Street, concerned about the garages along the property line as the Catholic church has a meditation garden right next to a two-car garage. Architect responded that the current building is over the setback and the new building will not be over the setback. Also the treeline area will not change with regard to the design.

Pastor Frank Daly of Our Lady of Sorrows Church, is also concerned about memorial garden to Father Bullock. Architect said there is no driveway along the property line. Ms. Yarmush said they have not done a landscape plan, but they will take the garden into consideration. Architect also confirmed for Pastor Daly that original nonconformity will be removed with the demolition and the new structure will not be in the setback at all. He continued by saying the existing house as built in 1860 is being demolished and replaced by a one-story garage closest to the garden. The main structure will line up with the existing parish structure.

Pastor Daly expressed concern about noise from construction during two or so mid-week funerals per month with Covid protocols that include open windows. He was directed to building inspector for guidance. Ms. Yarmush said owners can be sensitive to this consideration.

Architect agreed with Chair that bottom left corner of structure is either on the setback line or a little bit to the south and error needs to be fixed.

Ms. Brigham asked for difference between an in-law unit and a two-family (for one thing Chair said an in-law shares a single entrance to the structure whereas a two-family would have two separate entrances from exterior). Mr. Hari noted that the main house can be entered through the side without having to use the common entrance. He also noted the smaller unit is basically a three bedroom. The den on the first floor is more than likely a bedroom and has been classified as such in some documents. Space has its own: septic system, two-car garage, basement, and driveway. It sounds like a duplex and probably should be taxed as a duplex.

Mr. Yarmush mentioned reason for two upstairs bedrooms is his parents use two separate bedrooms to sleep well. The first floor is not going to be a bedroom, except for maybe an occasional once or twice a year spill-over use. It is

not the intention to have a three-bedroom living space. Ms. Yarmush added that 95% of the time it will be her husband and herself in Unit 1.

Mr. Hari interested in duplex vs. in-law apartment as it seems like there are some architectural hoops to make it technically an in-law unit.

David Sharff said a two-family could be used by two different families, whereas applicant has to own and occupy an in-law unit. Ms. Brigham asked what happens in the future if it gets sold? Architect said he thinks the town would require a new owner to get a new special permit.

Mr. Garber said if it were a duplex it would have to have two separate addresses on that plot and would be taxed separately on that property. Per Mr. White, a duplex would usually have separate water, electrical, entrances, and egresses. Chair noted patio door coming out of living room could be a secondary entry and is a concern he has.

Ms. Brigham said looks like currently single gravel driveway will be replaced by two paved driveways and they are concerned about runoff to rectory or her back lot. Architect said that their engineer has not flagged drainage, and that the woods in the back are going to be preserved.

High point at the church is 267 feet and 55 Cottage rear abutting property is at the low to the South dropping to 259. Feet. Water from driveway will probably drain towards street initially coming into the property. To mitigate some runoff, permeable asphalt could be considered.

Matt and Shali Harma, 11 Robyn Road, said Yarmushs are very kind and they support the project. Rabbit Noah Chesses serves at 100 Ames Street and spoke in favor of the project and the family.

Chair stated that the ZBA is the last stop for all projects. He would like a clean letter from the historical society before ZBA can weigh in on this. Concerns are: 1) vegetation on property to the north; 2) show either by pervious material or any other engineering solution that runoff doesn't run to north or south neighbors 3) concern of existence of the secondary entry to the in-law unit 4) clean letter from historical society before ZBA can weigh in.

Ms. Yarmush said they have been working with historical society for a year and it is her understanding that the historic society wants the ZBA to approve first. She added that she agreed to SHC bringing in a salvage company, but she didn't agree she would take responsibility for that. Mr. Yarmush said if it's a problem, consider the deck stairs on in-law gone, they don't need them and that they are sensitive to all of the aesthetic and water needs. The concern of Mr. Yarmush is that the SHC hasn't issued a decision in over a year.

Chair concerned that once applicant has ZBA approval, the applicant can go right to building inspector. Mr. Brahmachari said a clean letter stating Historical Commission is satisfied with application regarding #2, #4, and #5.

Mr. Yarmush expressed concern because they have done considerable work to try to maintain the overall look. And, applicant said requests made are non-existent on property currently, these are additions. Chair can't tell if SHC is looking for a full set of construction documents, or a few details, but if their designer can provide documentation to SHC for #2, #4, #5, those three are necessary.

Mr. Yamush asked if ZBA saw glaring omissions. Chair said ZBA looks at bulk, height, width of the project, and in the case of in-law unit certain considerations need to be made. ZBA is not here to design the project, SHC looks at different details. Chair said SHC letter looks like a very good start that SHC has begun reviewing your project, but ZBA needs satisfactory confirmation from them. Mr. Yarmush disagreed with calling it a start because it has been over a year. Ms. Yarmush asked if there is a reasonable time frame to get a decision. Ms. Yarmush agreed with her son. Architect said they could probably satisfy that request without getting a full set of construction documents.

Mr. Yarmush said number #4 #5 were not agreed upon with SHC. Mr. Sharff thinks they could get a proposal from a salvage company. Mr. Yarmush concerned because letter from SHC was promised mid-December and didn't arrive until January.

Regarding run-off, Mr. Yarmush pointed out it is a two-acre lot and they are not even coming close to a lot coverage issue. Chair wants consideration of a south side of the property slope to the driveway.

Roof runoff captured in the ground per architect.

Mr. Garber suggested Chair request Mr. Grassfield and SHC board write something with more clarification for the Board since letter being considered tonight is for building inspector. Chair said one way to handle is when applicant reaches out to historical society they can have SHC send a letter to the building inspector and the board. SHC does not meet on a regular basis.

Pasqualino Pannone, 7 Robyn Road, asked if board could approve conditionally. Abe said with another town entity involved they can't give conditional approval with regard to specific items #2, #4, #5. Mr. Garber said this is where Chair should reach out to Jim Grassfield. Mr. Brahmachari can do that, but it is still the applicants responsibility. Mr. Reef said ZBA is the place of last resort. Mr. Yarmush said property was vandalized and it became a police issue in the community. Mr. White has not been in contact with historic regarding this property, but ultimately before any demolition starts any project built prior to 2020, or has historic significance, the building inspector will reach out to SHC.

Mr. Pannone suggested a letter on ZBA letterhead. Chair said they can use the meeting minutes. Chair would be happy to be a part of a joint meeting on February 10, 2021.

Applicant requests to continue to February 10, 2021. Applicant told signed continuance letter needed for posting.

Chair motioned to continue 63 Cottage Street, Case 1871 to February 10, 2021, by request of the applicant. Seconded by Mr. Weiss. Unanimously approved by roll call 5-0-0 (Brahmachari, Garber, Weiss, Young, Reef)

10:15 PM – 133 Old Post Road, Case 1868, FASTSIGNS of Quincy – Other Business

Documents: Request for Withdrawal e-correspondence dated 12/11/20 from Frank Meroney, applicant.

Mr. Brahmachari motioned to withdraw without prejudice Case 1868, 133 Old Post Road. Seconded by Mr. Garber. Unanimous roll call: 5-0-0 (Brahmachari, Garber, Weiss, Young, Reef).

10:17 PM Consideration the provisions of M.G.L. c. 110G regarding electronic signatures – Other Business

Documents: Memorandum to Town Clerk from Susan M. Benham, Esq., Town Counsel dated November 20, 2020
RE: Electronic Signatures by Board of Appeals

If adopted, a Certificate of Vote must be prepared by Ms. Schustek and certified by the Town Clerk and recorded at the Registry of Deeds.

Members express being in favor of electronic signatures on Decisions.

Chair moved that the Zoning Board of Appeals hereby recognizes and accepts the provisions of M.G.L. c.110G regarding electronic signatures and that its members will henceforth execute documents either with electronic signatures or with wet ink signatures and that both will carry the same legal weight and effect. Seconded by Mr. Garber. Unanimous roll call: 3-0-0 (Brahmachari, Garber, Weiss).

10:26 PM Minutes from December 9, 2020

Chair moved to approve the minutes for December 9, 2020. Seconded by Mr. Garber. Unanimous roll call: 5-0-0 (Brahmachari, Garber, Weiss, Young, Reef).

Board member consensus that a 10 PM hard stop on meetings is desirable due to early work schedules.

It was moved, seconded, and voted to adjourn.

The meeting adjourned at 10:28 PM.

Respectfully submitted.

Minutes Approved 2/10/2021