

SHARON ZONING BOARD OF APPEALS MINUTES OF WEDNESDAY, MAY 26, 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, May 26, 2021, at 7:00 P.M. The following members were present as established by roll call: Abe Brahmachari, David Young, Steve Weiss, Joe Garber and Sam Reef were present. Kris White, Town of Sharon Building Inspector was present also. Mr. Brahmachari, Chair, reading Covid19 protocols per the Governor of MA and procedural ground rules.

7:00 PM –CASE 1861 – 181 Pond Street – SHS Building Team – Other Business

Sharon High School design and construction team members Ti Johnson, Warner Larson Landscape architects, and Chris Blessen, Tappe Architects presented a courtesy update to the ZBA to close out questions from previous appearance on July 22, 2020.

Determinations of the design team included the following: The Beach street cross walk is unchanged as part of this project as the school is an existing use. Regarding large truck paving to differentiate where trucks can go, design team determined that for the occasional truck drivers, it will be clear and obvious they are entering a pedestrian zone and no pavement markings are necessary. The design team added four signs which include two signs indicating truck crossing to pedestrians and two larger signs for the truck drive that say slow, watch for pedestrians that will be associated with the vehicular gates. Also, the design team considered semi-pervious surface on Ames Court parking and driveway, but in addition to upfront cost, porous asphalt adds specialized maintenance to the project. The shotput throwing area was reconfigured to minimize tree removal. Need for additional opaque stockade fence will be reassessed during construction, but expectation is that there is enough wooded buffer to provide a visual screen. Separately, a light pole has been moved/shifted away from an abutter. Finally, a practice wall for the tennis court was determined not to be necessary, but can be retrofitted in future if desired.

Mr. Brahmachari is concerned about intersection noted in first comment. Mr. White noted he expects 20 mph signs posted. Last steel beam expected to be erected by fall 2021. Building completed summer of 2022. Students move in fall 2022, and demolition begins on old building. Project on schedule and under budget per Mr. Blessen. No members of public requested to comment.

7:23 PM –CASE 1876 – 125 South Main Street – Harel Della Torres -- New Hearing

Present for the applicant: Harel Della Torres and designer, Hagit Levy, Hagit Levy Architecture and Design, Sharon, MA

Documents included: Application filed April 20, 2021; plot plan by Level Design Group, LLC, Plainville, MA dated March 26, 2021; plans by Hagit Levy Architecture + Design, Sharon, MA, dated January 28, 2021. Also, a letter from resident in favor of project dated May 6, 2021, was received. Additional documents shared by applicant during meeting: email conversation with Kevin Davis, BOH, from April 19, 2021.

Chair read the following documents into the record: legal ad as it appeared in the Times Advocate on May 5, 2021, and May 12, 2021; letter from John Thomas, Conservation Commissioner, dated May 11, 2021; letter from Kevin Davis, Agent of the BOH, Dated April 6, 2021.

Applicant seeks two findings and a special permit relative to a proposed structural expansion on a non-conforming lot. First floor living room and second floor master suite addition included in project. They don't need a variance. Because their lot is nonconforming to 60,000 square feet required in Ground Water Protection, they'd like relief to build this addition.

They are looking to make what was a commercial/insurance business look more residential from outside of the house. Applicant explained that the area marked as a family room will be open to the hall and have access to the stairs from the hallway, so no longer a master bedroom. The existing house is three-bedrooms. Bedroom two is an existing office/den that will become a bedroom. Proposed is a four-bedroom house with current master bedroom becoming a family room and a new master bedroom suite with walk-in closet added to the second floor. A second-floor loft is open to the stairs and the downstairs.

Board members discussed needing clarification whether the BOH letter is for the three bedrooms as existing, or for four bedrooms as documented in applicant's submitted plans. Based on public record of house being a three bedroom it appears that they added a fourth bedroom to plans, but ZBA members don't know what the septic design was for. Board member stated that the 1,500 gallons doesn't mean it's a fourth bedroom. It'd be a 440-gallons-per-day design, not the size of the tank. Mr. White agreed it isn't clear what it is and what it is proposed to be, but added that BOH always gets a second look before permitting.

Ms. Levy, designer, explained that current house is a three-bedroom and a commercial space existed where the family room is right now. Because the applicant is not using the commercial space, Mr. Davis was agreeable to the fourth bedroom. Existing septic is 1,500 gallons, so suitable for four bedrooms per Mr. Della Torres. He thinks septic was designed so big because of the commercial use that was there previously. Applicant shared an email from April 19, 2021, that indicated Mr. Davis' had no issues with Mr. Della Torres' plans/proposal.

Chair said because town record showed three bedrooms and because Mr. Davis' letter indicated no change in number of bedrooms, there is a disconnect. Mr. Brahmachari suggested applicant reach out to Mr. Davis to specifically indicate that a four-bedroom would be acceptable. Members questioned whether BOH agent can increase the bedroom size unilaterally. Also, the property may not be big enough in today's zoning, and adding a fourth bedroom increases the nonconformity. Applicant said the minimum lot size is 8,000 square feet for general residential district across the street from his property, but 60,000 square feet due to groundwater protection district on his side of the street.

Applicant explained that current master bedroom will become a family room and the master bedroom closets will be added to Bedroom 2 as shown on submitted plans.

Board members discussed what could hold ZBA back if BOH agent approved a fourth bedroom in revised letter to applicant. Mr. Weiss reiterated question of whether Mr. Davis had the right to approve a fourth bedroom or does it needed to go to a hearing in front of the BOH because they are increasing the number of bedrooms on site? And added, it's no different from when a previous applicant came to ZBA and wanted to change their two-bedroom into a three-bedroom house because their septic had a 330-gallon flow -- and ZBA denied it because it was zoned for a two bedroom. Mr. Weiss added that three- to three bedrooms is fine with him. If it's three to four bedrooms, and if health agent has the right to increase number of bedrooms, he has no issue with it. He doesn't know if health agent can do that or not. From his experience, property owners need to go before the BOH to increase the number of bedrooms for a nonconforming. Mr. Reef agreed that the lot is not big enough and project increases the nonconformity.

Town bylaws do not require a closet for a room to be a bedroom. BOH reads 70 square feet to be a bedroom. Bylaws say anything that has direct access to be a room by itself, that can have a bed thrown in after, can be a bedroom.

Mr. White said BOH, Kevin Davis, review the plans prior to any permitting. Mr. Garber wanted clarification from Mr. Davis.

Hagit Levy said per discussions with town, the current house is a three bedrooms and a commercial space. They are taking basement commercial space off and making it a four bedroom, so that is why Kevin agreed to write the letter.

She thinks this (shift from commercial use) is where Mr. Davis' decision about the septic comes from. Applicant added that he could read an email from April 19, 2021 (10:58 PM harel.dellatorre@gmail.com) where he covered this with Mr. Davis. He then read Mr. Davis' response from April 20, 2021, which stated that Mr. Davis had no issues with proposal for a fourth bedroom. Mr. Della Torre felt that was clear. Applicant pointed out issue is only because they are in the overlay zone. If he was on other side of street, 8,000-square-foot minimum lot requirement would be enough. This is why he is seeking relief.

Applicant showed family room will not have closets. The office that becomes Bedroom 2 will absorb the closet that is in the current master bedroom. And, the current master bedroom becomes a family room that will open wider than a doorway and access to the stairs to second floor will be there. If board disagrees, he will get rid of the closet all together, but they would like to have the extra bedroom in the records. He is inside the general residence area; it is only the groundwater protection district that requires the relief.

Board members want clarification from BOH agent. And/or the board could approve plans as a three bedroom. But, member pointed out that the ZBA can't because submitted plans have four bedrooms. Plans would need to be written as bedroom one and two on first floor with office, and then master bedroom on second floor. Applicant only amended the plan after Mr. Davis asked.

Per Ms. Levy, current septic is sized for three-bedroom house and a commercial space, and that is exactly what the email with Mr. Davis showed. Instead of three-bedroom and a commercial space, it will be just a four bedroom and won't affect the septic system. Chair expressed it is still confusing: town record is three, what he is hearing from board members is that there is a question whether Mr. Davis can unilaterally make it three- to four-bedroom, and/or does it need to go to BOH commission?

Option 1 -- continue hearing and applicant discuss direction from three-bedroom to four-bedroom house with Mr. Davis.

Option 2 -- continue and submit a drawing that it is a three-bedroom and it will remain a three-bedroom home. They would need to move the closet and the door.

Designer interjected that the bedroom 3 closet door was removed and big French doors added as shown in plans from January 28, 2021, and there is a second floor in these plans. After applicant learned they could add fourth bedroom, they changed to the plans submitted for tonight's hearing. Applicant will go with three-bedroom plans from January 28, 2021, if that gets the approval. Site plan dated March 26, 20201.

Chair asked if they could take a vote on plot plan dated March 26, 2021, and three-bedroom plan with the date on it. If that's the one he wants to submit. that is fine with Mr. Garber. This eliminates need to get clarification from Mr. Davis regarding fourth bedroom. Mr. Weiss asked if ZBA can vote on a set of plans that have not been submitted to the board since Board doesn't even have a copy of the set of plans. Applicant said it is really identical except for the page showing the office space. Chair said board members were expressing concerns and pointed out that it needs to be unanimous vote. He added that the applicant could continue and submit the three-bedroom plans to the ZBA Administrative Assistant.

No abutters wishing to comment.

Applicant requested to continue the case to June 9, 2021.

Mr. Brahmachari motioned to continue hearing for 125 South Main Street, Case 1876 to June 9, 2021. Mr. Garber seconded. Unanimously approved by roll call, 5-0-0 (Brahmachari, Weiss, Young, Reef, Garber).

8:12 PM -- Case 1877 -- 4 Paul Revere Road -- Adam and Michelle Shain -- New Hearing

Present for the applicant were: Michelle and Adam Shain, David Katz, general contractor, Best Residential Services, 71 Glendale Rd., Sharon, MA.

Documents included: Application dated April 26, 2021; architectural plans from Copper Beech Design, Weston, MA dated January 16, 2021 (revised, dated March 4, 2021); revised Subsurface Sewage Disposal System by Outback Engineering Inc., Middleborough, MA dated April 8, 2021

Chair read the following documents into the record: Legal Ad as it appeared in the Times Advocate on May 5, 2021, and May 12, 2021; letter from John Thomas, Conservation Commissioner, dated May 11, 2021; letter from Kevin Davis, Agent of the BOH, Dated May 14, 2021.

The new addition has more than 20 feet of setback. At closest point current setback is 19.7- and 19.3-feet away, so project requires a special permit.

Applicant seeks two findings and a special permit relative to a proposed structural expansion on a nonconforming residential structure.

Project adds two bedrooms, a playroom, and a two car garage. Ms. Shain said they installed a five-bedroom septic in the fall, and then when permits were pulled, discovered the existing house that was built in 1955 is four inches too close to the neighbors on one side and six inches too close to the neighbors on the other side, so the existing structure is nonconforming. The new addition will be within the setback. Ms. Shain shared plans with board. Applicant said room labeled bedroom on lower level of existing is labeled wrong and is an office.

The home is listed with the town as a three-bedroom home.

Per Chair, it does clearly say that it goes from a three-bedroom home to a five-bedroom home on the plot plan. Applicant said the addition is no more nonconforming and won't be seen from the road. Mr. Brahmachari noted that Mr. Davis' BOH letter doesn't mention the number of bedrooms.

David Katz, general contractor working with the Shains, explained that that a years and a half ago he and the Shains met with Joe Kent, previous building inspector, about general plans. All parties thought this lot was conforming. Mr. Kent okayed in general scope and at that point Mr. Davis said they needed perp testing and engineering to verify the lot can handle a five-bedroom house. The engineering is part of package submitted for five-bedroom septic. It was verbally okayed by Mr. Kent because he didn't think they needed any other permitting. Mr. White replaced Mr. Kent and he asked that the existing home be identified onto the survey -- and that is when they found out for the first time that the existing house didn't meet the 20-foot-setback requirements on both sides. The new septic put in September 2020 was put in as a five-bedroom septic and engineered as a five-bedroom septic.

Board feedback included: questioning if members were good with it being a five-bedroom septic; consideration of when is an office a bedroom; (an office by definition needs to have a wider opening so it can't be easily converted into a bedroom); height of project no higher than existing home.

Applicant confirmed new plans will not be taller than existing home.

Chair asked board members whether since office door change is a slight modification it would be okay to put the special condition in the decision rather than having Shains come back? Member said not to design but if wall is coming down maybe wide pocket door. Mr. White added that it can be a casied opening minimum of 48-inches wide per the BOH definition of bedroom/office to not be considered a bedroom. He added that doors are doors when asked if it can be French doors.

Definition of bedroom in the zoning is a little different than under BOH regulations. Mr. White read the BOH bedroom regulations to the ZBA. Applicant said double glass door added in decision is fine.

Abutters approved of the addition: Caitlin Golden, 5 Paul Revere Road, is supportive of the addition. Jeff Amshalem, 6 Paul Revere Road supports addition as well. Linda and Paul DeVasto, 2 Paul Revere Road, are excited for addition.

Ms. Shain requests to close the hearing.

Mr. Brahmachari motioned to close the hearing for Case 1877, 4 Paul Revere Road. Mr. Garber seconded. Unanimous approval by roll call: 5-0-0 (Brahmachari, Garber, Weiss, Young, Reef)

Mr. Brahmachari motioned to approve Case 1877, 4 Paul Revere Road, with one (1) special condition that the door of the office room will be removed and turned into a four-foot-wide cased opening. Mr. Garber seconded. Unanimous approval by roll call: 3-0-0 (Brahmachari, Garber, Weiss).

8:44 PM -- Minutes:

Mr. Brahmachari made a motion to approve the April 28, 2021 minutes. Mr. Garber seconded. Unanimous approval, 5-0-0 (Brahmachari, Garber, Weiss, Young, Reef).

Mr. Brahmachari made a motion to approve the May 12, 2021 minutes. Mr. Weiss seconded. Unanimous approval, 3-0-0 (Brahmachari, Weiss, Young).

The meeting adjourned at 8:45 PM.

Respectfully submitted.

Approved June 9, 2021