

**TOWN OF SHEFFIELD**  
**ZONING BOARD OF APPEALS**  
**JULY 20, 2023**  
**TOWN HALL – SECOND FLOOR MEETING ROOM**  
**7:00 PM**

Board Members Present: Eric Carlson, Chairman  
Mark Bachetti  
Catherine Miller  
Nicole Chase  
Pat Levine, Alternate

Board Members Absent: Allison Lasso

Others Present: Robert C. Kilmer, Select Board Chair  
Gail Garrett Esq.  
William Martin Esq.  
Louis Aragi  
Bruce Goodchild  
Josh Risen, Board Administrator  
Members of the Public (Sign in Sheet Attached)

**7:00 PM Public Hearing –Administrative Appeal - Louis Aragi - regarding 1474 and 1500 Hewins Street, Assessors Map 9 Block 1, Lots 1, 3.2, Book 5 and Page 33 and Lot 8, Book 2447, Page 91. In the Rural District.**

Chairman Carlson called the public hearing to order at 7:00 PM and stated that this was for an Administrative Appeal to the Building Inspector's decision filed by Louis Aragi concerning access to his farm from Hewins Street. The Building Inspector has determined that the right of way is not a common driveway.

Chairman Carlson asked Attorney Gail Garrett, representing Mr. Aragi to present her argument that the right of way is a common driveway and therefore must comply with the subdivision regulations in the Bylaws. Attorney Garrett gave some background information regarding the disagreement between the Mr. Aragi and Mr. Goodchild regarding the right of way, owned by Mr. Goodchild, that is used to access the Aragi farm. In her opinion, once the right of way was moved from the original location and reduced in width it became unsafe due to double curves. She further states that in her opinion the right of way is a common driveway under the Zoning regulations because it has access to two parcels and therefore must comply with the bylaws. She referenced a situation where a large truck had gotten stuck attempting to navigate the double curves.

Attorney Garrett requests that the Board overturn the Building Inspector's determination and require that the road be widened to 30 feet to accommodate the large trucks that have to navigate it to get to and from the Aragi's farm.

P. Levine asked if there were any limitations on what conditions the Board could impose on the right of way. Chairman Carlson stated that this would be a question for Town counsel.

Attorney Martin, representing Mr. Goodchild rebutted Attorney Garrett's assertions regarding the safety of the right of way and submitted information in support of his argument. He pointed out that this matter has been adjudicated in Land Court and the Judge ruled that the new right of way was safer in its current location and size because it provided better sight lines. He further stated that the Judge also ruled that the right of way was constructed in accordance with an approved engineering plan and was safe for trucks to use.

Attorney Martin made the following arguments in support of Building Inspectors determination:

- The right of way only services the Aragi's parcel because Mr. Goodchild does not have to use it to access his property
- The Goodchild's only use the right of way to access their land and not to access their home, it does not fit the definition of a common driveway.
- Increased truck traffic on the right of way does not grant the Aragis additional rights to an increased width in the right of way or with the location.

Attorney Martin requested that the Board deny the Appeal and uphold the Building Inspector's determination.

N. Chase asked, if the right of way was constructed to the specifications of the engineer, why was the width reduced? Attorney Martin responded that the right of way was built in accordance with the specifications determined by an engineer and it was ruled to be safer because of the improved sight lines.

Attorney Garrett stated that the issue of the width of the right of way was never discussed at trial and that the Judge was primarily focused on the issue of sight lines. She stated that the matter before the Board was whether the right of way met the definition of a common driveway under the Zoning Bylaws and that there was no need to get lost in the details of what had gone before.

C. Miller requested that Mr. Aragi show the Board where the double curves are located and asked what needs to be done to make the right of way safer for use.

A discussion of whether the right of way predates the Zoning Bylaws ensued. G. Garrett stated that if the right of way had not been moved then it would have predated the bylaws and would not have to be compliant. However, once it was moved it became subject to the Zoning Bylaws and therefore, must be built to the proper specifications pursuant to subdivision regulations.

Chairman Carlson called a pause to the hearing to establish order and instructed all parties to sit down, raise their hand and wait until they are called on before speaking.

M. Bachetti stated that a common driveway would typically be going through the middle of two or more adjacent properties, and asked if the Board has the authority to say a right of way is a common driveway when it is identified as an easement in the original deed. Attorney Garrett responded that yes that is within the Board's authority to do so.

P. Levine asked if there were conditions attached to the right of way in the original deed from the early 1900's. C. Miller offered to research the original deed to find out if there were any conditions. Mr. Aragi responded that the deed has no conditions attached to the right of way. Attorney Martin argued that if the right of way is determined to be a common driveway then the Board would be required to have the entire right of way enlarged and not just the entrance area that is currently being debated.

Chairman Carlson requested that the Board look at the definition of a common driveway. Attorney Martin stated that the court ruled that all of Aragi parcels were to be viewed as one parcel and as such the issue is whether the Goodchild's infrequent use of the right of way constitutes access to more than one parcel of land.

Attorney Garrett stated that the zoning bylaw states that a common driveway is one that services more than one lot, and in this situation it is clear that it does service both the Goodchild and the Aragi property and the Board should reverse the Building Inspector's determination.

N. Chase stated that, in her opinion, if the Goodchild's are not using the right of way as primary access to their property then it is not a common driveway.

It was the consensus of the Board to continue this hearing to August 8, 2023 at 7 pm and to pose the following questions to Town Counsel:

1. Does Counsel consider Aragi property one parcel?
2. Does the Board have the authority to apply conditions to a right of way?

*C. Miller made a motion to continue the Public Hearing to August 8, 2023, seconded by M. Bachetti. The motion carried unanimously.*

**Board Reorganization:**

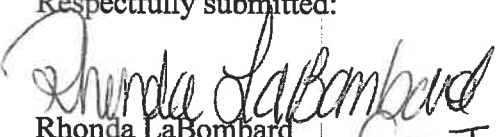
*C. Miller made a motion to nominate E Carlson as Chairman, seconded by M. Bachetti. The motion carried unanimously.*

*C. Miller made a motion to nominate M. Bachetti as vice-chair, seconded by N. Chase. The motion carried unanimously.*

*M. Bachetti made a motion to adjourn the meeting, seconded by C. Miller. The motion carried unanimously.*

Chairman Carlson adjourned the meeting at 8:52 pm.

Respectfully submitted:

  
Rhonda LaBombard  
Town Administrator

  
for Josh Rison

Documents Reviewed at this Meeting:  
Administrative Appeal  
Minutes