

**Zoning Board of Appeals
July 28, 2011 Regular Meeting**

Location Meeting Room #1
Town Hall
7A Spofford Road
Boxford, MA 01921

Present William R. Cargill, Jr., Chair
Paula Lia Fitzsimmons, Vice-Chair
Robert W. Conroy, Clerk
Kathleen O'Sullivan-Fortin, Alternate
Paula Meagher, Secretary
Pat Canonica, Planning Board Liaison

Absent Richard Corsetti, Alternate

6:38 p.m. William R. Cargill, Jr., Chair called the meeting to order
Roll call vote for Election of Officers for Fiscal Year 2012 was held as follows;

Robert Conroy motioned to nominate and re-appoint William Cargill as Chairman seconded by Paula Fitzsimmons.

William Cargill	yes
Paula Fitzsimmons	yes
Robert Conroy	yes

Paula Fitzsimmons motioned to nominate and re-appoint Robert Conroy for Clerk seconded by William Cargill.

William Cargill	yes
Paula Fitzsimmons	yes
Robert Conroy	yes

William Cargill motioned to nominate and re-appoint Paula Fitzsimmons for Clerk seconded by Robert Conroy.

William Cargill yes
Paula Fitzsimmons yes
Robert Conroy yes

6:40 p.m. Case #893 Eric E. & Christine S. Getchell
15 Depot Road

Special Permit to construct 16'6"x36' inground gunite pool on a nonconforming lot which will meet current zoning setbacks of fifty feet from all lot lines on the property from Article III, §196-6 (B) of the zoning bylaw.

Members Sitting William R. Cargill, Jr., Chair
 Kathleen O'Sullivan-Fortin, Vice Chair pro tem
 Robert W. Conroy, Clerk

Applicant Present Christine Getchell

This case was opened at the last hearing of June 23, 2011 and continued to this evening.

Robert Conroy read aloud the Planning Board recommendation with a unanimous vote to grant the Special Permit from their July 20, 2011 meeting.

There was no further information to submit from the applicant and the board members had no further questions and stated it was a straight forward application with no abutters in the audience to oppose or support the case.

Motion Robert Conroy – close evidence

Second Kathleen O'Sullivan-Fortin

Unanimous vote

Motion Kathleen O'Sullivan-Fortin – with respect to Case #893 approve said Special Permit petition to construct 16'6"x36' inground gunite pool on a non-conforming lot which will meet current zoning setbacks from all lot lines on the property from Article III, §196-6 (B) of the zoning bylaw for the premises at 15 Depot Road and further make a finding that it is not a detriment to the neighborhood subject to the usual conditions. Said petition was also approved by the Planning Board.

Second Robert Conroy

Unanimous vote

Kathleen O'Sullivan-Fortin will write the decision.

6:50 p.m. Minutes Review draft minutes 6/23/11

Motion Robert Conroy –approve as amended

Second Kathleen O'Sullivan-Fortin

Unanimous vote

7:10 p.m. Case #896 Town of Boxford
188 Washington Street

Special Permit and Variance to install a 24'x60' modular building at West Library from Article V, §196-18 Official or Open Space District; Article VI, §196-26 Off-street parking and loading areas, §196-30 Site plans and Article X, §196-45 (B) Temporary Uses of the zoning bylaw for the premises located at 188 Washington Street.

Members Sitting William R. Cargill, Jr., Chair
Paula Lia Fitzsimmons, Vice Chair
Robert Conroy, Clerk

Robert Conroy read aloud legal ad.

Applicant Present John Dold, DPW Superintendent and Member Library Temporary Move Committee

Plan Supplied Prepared by The Neve-Morin Group, Inc. Revised by J. C. Dold, PE dated June, 2011

An interoffice memorandum was distributed amongst the board members per Alan Benson, Town Administrator request to make part of the file; which was read into the record by Robert Conroy. The memo was an opinion from Town Counsel on whether the use of modular structures for library purposes would be prohibited under the Zoning Bylaws. Their opinion was that a variance was not required. William Cargill explained that at the informal hearing last month the applicant was instructed to file for a Special Permit and a Variance because it was the opinion of board members that if the bylaw is silent – then it is prohibited. There was discussion amongst the board members stating the reasons that they felt it required variance relief – however, also stating that hardship may be the easiest to prove relief is warranted mainly because of it being a public building during construction of the existing public building although in a different location on municipal land. There are specific sections of the bylaw that address trailers §196-

34 (R/A districts) temporary uses §196-45 (dwelling purposes on a site during construction) but does not appear to have appropriate language in these sections to base a decision with a Special Permit.

William Cargill asked board members after much discussion whether they thought a variance was required and Kathleen O'Sullivan-Fortin, Paula Fitzsimmons and William Cargill all agreed that it should be and Robert Conroy disagreed; therefore, the Chair stated that with all due respect to Town Counsel opinion that they disagreed and that all previous cases heard by this Board and according to §196-10 of the zoning bylaw that unless it is specifically listed it should be a prohibited use.

John Dold was present as a member of the Library Temporary Move Committee and presented the issues of when the library is being constructed they had to find a place to house the books and the people. The logical conclusion was the West Library building with extra accommodations (an additional structure) and would look for consideration of this Board to temporarily locate a modular building and go through the process of a site plan review according to the bylaw. A memorandum was submitted along with the filing explaining the process along with a picture of a typical modular building and a floor plan of the existing building with an interconnecting ramp into a 24'x60' building and a handicap ramp. All the criteria for site plan review were discussed.

In accordance with Section 196-18 of the bylaw the applicant submitted plans with location, uses and external appearance before the Board of Selectmen for review at their meeting on July 11, 2011. The agent for the Board of Health, Kendell Quarles attended two meetings of the Temporary Move Committee and concluded the existing water and waste disposal systems would be adequate for the temporary relocation of the library. Parking proposed was indicated on the plan submitted with a reduction in spaces from 37 to 32; however it was stated that under normal circumstances, it would be sufficient for personnel and patrons but there may be an affect of adequacy during baseball games. John Dold also stated that he went before the Planning Board on July 20, 2011 and that Board voted to approve with a majority vote.

The proposal is for the modular structure be placed 3-4 feet in back of the existing building, remove a window, some concrete and brick below the window and then create an enclosed walkway and ramped for handicap access. On the site plan there are 12 parking spaces deleted to put the temporary structure in and creating 8 additional spots further back. Currently there are 37 total spaces and there will be a net loss of 5 spaces to yield 32 spaces for parking on the lot. Paula Fitzsimmons asked how it would impact the basketball court and if somebody had contacted the Recreation Committee. She also asked about the impact for the 2012 baseball season. John Dold said that he did not speak directly with the Committee, but that he had a conversation with BAA (Boxford Athletic Association). Paula Fitzsimmons said that she did not feel that the proposal is a solution for parking especially during the baseball playoffs and championship games because there will be people parking on Washington Street and kids everywhere and this solution does not look like it has the safety of the kids that play baseball in mind. The parking lot is literally full at every single game. The plan is to have this structure for 18 months: November 2012 through April 2013.

John Dold said that the building will be lit at night in the front and the back. In the back of the building there will be 2 exterior 500 watt lights on a utility pole facing the modular structure. William Cargill said that any lighting on the site cannot remain on all night –they may require timers and shut off at maybe 10:00 pm or a time certain.

There will be no landscaping and no signs. No issues with drainage are anticipated on the site.

William Cargill asked Paula Meagher to draft a memo requesting input from the Rec Committee, BAA and Officer Nentwig (Police Traffic Officer) in regards to the concerns raised of safety especially during the sports season and reply before our next hearing of August 25, 2011. He said that it seems like the biggest concerns are the parking and it is a temporary situation; therefore, we'll get the input with a possible solution and address at the next hearing- which is from Section B (2) of site plan review of the zoning bylaw 'convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic.'

Robert Conroy read aloud an email supplied from Heidi Ellard to Chuck Adam and copied to Nanci Milone Hill in regards to the hours of operation stating the temporary location they do not see any change from what they currently are.

Robert Conroy read aloud the Planning Board recommendation dated July 20, 2011 with a three to one vote to grant the Special Permit. Pat Canonica said that he was the dissenting vote and explained his reasoning for voting that way being he didn't really see a need for it. They are going through a change in the community and thought we didn't need to. It's all for staff and why not put them in town hall or rent space at Boxford Animal Hospital or somewhere. He said that the vote passed at town meeting but that his opinion was that the library left the town without a library in west. If the west building is suitable for a year it should be suitable for perpetuity.

Jane Moody, Library Trustee said that it may be a fine building and the building we have now does not work for the library. This is a temporary situation while the new one is being built. We all have opinions and we voted at town meeting and at the polls and we are now in the process of spending money from the state.

Kathleen O'Sullivan-Fortin asked if there were any other space to put the office staff in the basement or any other location. John Dold said the building inspector would not approve that and only storage could go into the basement.

John Dold said the time frame is that he would need to order the structure in September to be delivered in November and it probably takes one month to set it up. He said that if this case is decided in August it would not hurt the tentative schedule he has to meet.

There were no further questions from the audience of the Board members.

Motion Robert Conroy- continue hearing pending input from Police, BAA and Rec Committee to a date certain of August 25, 2011.

Second Kathleen O'Sullivan-Fortin

Unanimous vote

**8:10 p.m. Case #894 Town of Boxford
10 Elm Street**

Special Permit to demolish 1981 addition and construct expansion to current public library which will meet current zoning setbacks on the property from Article V, §196-18 "Official or Open Space District"; Article VI, §196-26 "Off-street parking and loading areas" and §196-30 "Site plans" of the zoning bylaw for the premises located at 10 Elm Street.

Members Sitting William R. Cargill, Jr., Chair
Kathleen O’Sullivan-Fortin, Vice Chair pro tem
Robert W. Conroy, Clerk

Applicant Present Angela Hyatt, Architect (Schwartz/Silver Architects Inc.)

There were additional materials submitted consisting of one page dated 7/20/11 labeled PB meeting and nine pages dated 7/27/11 labeled HDC meeting from the architect; a revised parking count analysis dated 7/20/11; an email dated 7/27/11 from Marc Mercier (Member from Fin Com) with a subject of Revisiting Population Projections Related to the Library Program; letter dated 7/14/11 from Nancy Rohlfs and Randell Kennedy; and a Budget Summary updated 7/28/11 from Chuck Adam, PBC.

Angela Hyatt apologized about the previous site walk that was scheduled on 7/14/11 which was not properly marked and reiterated that the next one will be staked and spray painted. She confirmed that the corners of the building will be shown and it will be visible for where the parking lot will be so that there is a footprint of everything. The well cap is already staked as of today. Arthur Sibbach, PBC and Library Trustee said that the perimeter will be painted. John Dold will be doing the marking for the architects and Nancy Merrill is going to walk with the members to discuss the trees that should remain along with their landscape architect.

Another date was discussed for a site walk of Thursday, August 11, 2011 at 4:00 p.m. which will be prior to the Planning Board meeting scheduled for review and recommendation on the proposal. Paula Meagher will post and email all board members and committees necessary.

Angela Hyatt said they have met with all departments since the ZBA last hearing; another HDC meeting, Conservation, Board of Selectmen and Board of Health and have gotten approval from the Board of Health. The contractor will get a permit from the Board of Health for the well testing.

Three major changes in the last month were discussed. They have dialed down the number of parking spaces; the aesthetics of what they call the front meeting room barn and after meeting with the Board of Selectmen structural changes to the roof form and exterior light fixtures. There were concerns brought up at the Planning Board meeting about the paved parking area and the applicant said that she has reviewed the plan with John Dold and the concerns are mainly about maintenance and paved is what the DPW wants. There were 10 overflow parking spaces on turf previously and buffered plants against Sayward Road that they will now make parallel parking spaces so there will be no headlight issues and will lose six spaces; she forwarded the plan to the Board of Library Commission and they

have approved it and don't have a problem with the loss of spaces. It also meets the intent of the bylaw and they would like to preserve as much open space as possible. So now they are at 50 paved parking spaces.

The lighting is proposed for a fourteen (14') foot low level pole with full cutoff LED down lights so that they are conscious of light trespass and also efficient. They will be a metal fixture with a slender pole possibly charcoal black but still has to go before the HDC and will show three options to them at the next meeting.

Two major changes to the building were the single pitch roof line in the back is going to now be moved down and springing it off a different point; which is noted on the aerial views of the site plan submitted. It allowed them to extend the dormer which is the reading room inside and have added two windows to break up the façade. The other change is the front that faces Elm Street and they wanted to push down the roof line and found another inspiration from town to resemble a stable with arched openings like the Lockwood Barn and one on Topsfield Road and still working on exact plan but that fits Boxford. They have added a barn door element on the south side with no windows.

Roofing materials were discussed and Arthur Sibbach, Library Trustee and PBC member said they are considering metal roofs but they are up against a budgetary limit and metal or copper is significantly higher so they have to play the budget concerns versus the durability concerns.

The discussion was then opened to the public.

*Nancy Rohlf*s – 21 Cross Road stated she would like to clarify comments from a letter she submitted and that she is not suggesting a smaller proposal just because. After researching construction grants awarded by MBLC and their website statistics she found that more than half of the towns built libraries smaller than their grant size and in 2 instances even allowed a complete change of location without causing forfeiture of the grant. Boxford's grant was awarded in 2005 during a time of economic expansion and our actual population from 2000-2010 has only increased 0.5%; therefore, the estimate is most likely incorrect. The average square footage of Massachusetts libraries (70 in total) that serve Boxford sized towns with a population between 5,000-10,000 is 10,584 square feet and dedicated parking spots are 23.

William Cargill explained that the site walk will help by getting a visual with the markings and also agreed that the less parking the better.

Kathleen O'Sullivan-Fortin said that the bylaw does in fact suggest this Board can change the amount of spaces and the ratio, if the Board feels the parking can be reduced and also take into account that it would still be big enough for plows, deliveries and the safety of pedestrians and vehicular traffic.

Paula Fitzsimmons said that she understood that the number of spaces is a mathematical ratio; but why is it for fifty (50) spaces- do you really need that many spots if there is already commuter parking for overflow at meetings or events held at the building.

Motion Robert Conroy -continue Case #894 pending site walk on 8/11/11 until a date certain of 8/25/11.

Second Kathleen O'Sullivan-Fortin

Unanimous vote

9:10 p.m. Motion Robert Conroy motioned to move into Executive Session for purposes of discussing *Murphy v. Cargill, et al (Boxford)* and declare that an executive session is necessary since an open public discussion may have a detrimental affect on the negotiating, bargaining or litigating position of the Board of Appeals and on completion of the Executive Session to return to open session and immediately adjourn without conducting any further business.

Second Paula Lia Fitzsimmons

Unanimous vote

9:16 p.m. Reconvene to open session

Motion Robert Conroy – adjourn at 9:16 p.m.

Second Paula Fitzsimmons

Unanimous vote

Respectfully submitted,

Paula Meagher

APPROVED AS AMENDED 9/22/11