

**Zoning Board of Appeals  
August 25, 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  
Richard Corsetti, Alternate  
Paula Meagher, Secretary  
Pat Canonica, Planning Board Liaison

**6:48 p.m.** William R. Cargill, Jr., Chair called the meeting to order  
Draft minutes were on the agenda but not yet available; therefore, tabled to next hearing and onto new business.

**6:50 p.m. Case #897 Carols E. & Karen M. Melanson Giron  
42 Sunrise Road**

Special Permit to construct 22x22 detached garage to replace rotting shed on a non-conforming lot from Article III, §196-6 (B) of the zoning bylaw.

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

**Applicant Present** Karen Melanson Giron  
**Plan Supplied** Site Plan Prepared by Donohoe and Parkhurst, Inc. dated June 21, 2011

Robert Conroy read aloud legal ad.

The applicant stated that the existing shed on the property is in poor condition and they would like to demolish and replace with a detached one car garage which has been approved through the Conservation Commission. There is currently a two car attached garage on the property and this proposal will yield space for three automobiles. There will be no plumbing. The applicant testified that relief is required from the town zoning bylaw Article III, Section 196-6(B) which is a non-conforming lot due to the undersize lot size of 1.48 acres. The lot was created in 1953 (prior to 2 acre zoning) and the house built in 1958. The house conforms to all current setbacks and the proposed new structure will also meet current zoning setbacks. The height of the building will be less than sixteen (16') feet. There is no second floor and there will be exterior lighting over the door with one fixture. There is no commercial intent for the proposed 22x22 garage and the sole purpose is for one car and lawn equipment.

There were no further questions from the Board and nobody in attendance to speak on behalf or against the petition; therefore, the Chair advised the applicant to get a Planning Board recommendation and come back to the next hearing for a vote of the petition.

**Motion** Robert Conroy – continue pending Planning Board review & recommendation until the September 22, 2011 hearing.  
**Second** Paula Fitzsimmons  
**Unanimous vote**

**7:00 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

**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 and revised August 25, 2011.

Richard Corsetti, Alternate Member on ZBA stated that he sits as an alternate and not a voting member but wanted to disclose that his wife works at the library on a part time basis and will recuse himself if necessary and requested the Chair to poll the audience and board members if anybody had an issue or felt uncomfortable. Board members all agreed that his opinion is welcome and would like his input. The Chair also stated he felt comfortable with him sitting and values all members input whether voting or not but technically if he does recuse himself he must leave the room. There was no one in the public that spoke about him recusing himself from the hearings.

This case was continued from the July 28, 2011 hearing pending input from Police, BAA and Rec Committee. John Dold said that he met with BAA members, Police and members of the PBC in regards to the concerns discussed at the last hearing about parking issues and public safety with overflow parking at certain events and especially during prime sports season. He submitted a letter from Lt. Robert Hazelwood requesting that on-site traffic pattern be one-way with white arrows painted on the driveway indicating the flow and 'Do Not Enter' signs in specific areas. The reasoning for a one way traffic pattern was due to the limited (eight foot) clearance to get past the new modular building.

There was also a copy of an email representing the BAA issues discussed to implement changes with other departments such as Conservation Commission for the updated parking plan with additional parking in the field behind the library where several angled spots will be within the 200 foot river front line. They will have to apply for an RDA (Request for Determination) with that Board but should be acceptable because it is a temporary arrangement. Also, they are requesting the library director consider amending library hours of operation during the 4 month summer baseball season to the following:

Monday and Tuesday	9 am to 7 pm ** (see below)	
Wednesday	9 am to 7 pm **	
Thursday and Friday	9 am to 5 pm	
Saturday	10 am to 3 pm (closed in summer)	usually

practice day & shouldn't have parking problems that weekly games will have

\*\* If possible, on either Monday or Tuesday during 4 month period, requesting library to close at 5pm and BAA will work with coaches and families to try to limit the amount of cars parking on one of these night(s).

Baseball season ends August 15, 2012 and the parking will resume to “normal” library hours.

John Dold explained that the library director did indicate that she would try to work with the BAA to adjust the hours especially for game nights and there will be signs and arrows painted on the pavement per the request of the Police for public safety.

Parking spots for the library will now be going from 37 to 42 spaces per the plan submitted to the file.

There was also a memo submitted from Town Counsel dated August 24, 2011 which was summarized and read by Robert Conroy. Town Counsel has opined that the modular structure constitutes a “public building” which is permitted as of right in the O district and that no variance is necessary. Three sitting members on the ZBA still think a variance is required although it is a temporary structure and that it does not fall within the language of the bylaws. Nonetheless, the Town understands that the ZBA has determined that it will err on the side of caution and require a variance. It was also noted that should the Board vote to grant the variance it should be conditioned as follows: *Should the library fail to be certified by the Board to receive State Aid during the period in which the Grant Agreement is in effect, the Agreement shall be null and void.*

Kathleen O’Sullivan-Fortin explained the reasoning for adding that particular condition. One of the criteria to obtain a variance is to prove hardship and should a variance not be secured for this temporary structure it would stop the construction of a new library, any progress and grant monies would no longer be certified; which is found as a compelling argument for hardship in support obtain a variance. *Frank Quackenbush (PBC)* also stated that if certification was lost no other library in surrounding areas could be used.

Robert Conroy read aloud the Planning Board recommendation that was also read into the record at the hearing on July 28, 2011 with a three to one vote with a motion to recommend the ZBA grant the Special Permit from their meeting on July 20, 2011.

The Chair suggested that it is one case number for the Special Permit and Variance; therefore a decision could be bundled together but thought it would be best to obtain motions separately after closing evidence.

**Motion** Robert Conroy – close evidence

**Second** Paula Lia Fitzsimmons

**Unanimous vote**

**Motion** Paula Lia Fitzsimmons – motion to grant to the Town of Boxford request for a Special Permit to install a 24’x60’ modular building at West Library from bylaw §§196-18 Open Space District 196-26 Off-street parking and loading area, 196-30 Site plan review and 196-45 Temporary Uses at 188 Washington Street according to the plans submitted dated June 2011 as modified by J. C. Dold, P.E. and contingent upon Case #894 prevailing with a unanimous vote

**Second** Robert Conroy

**Unanimous vote**

**Motion** Paula Lia Fitzsimmons – motion to grant the application to the of Town of Boxford requesting a Variance to install a 24’x60’ modular building at the West Library based upon a finding

that there is uniqueness to the property; it abuts wetlands, there is a ball field on the property that needs to be preserved, there is a permitted gazebo that will require grading to be constructed – Also, it is not a detriment to the neighborhood and would be a hardship to the town to not put in this location contingent upon unanimous vote of Case #894 to grant.

**Second** Robert Conroy  
**Unanimous vote**

Paula Fitzsimmons will write the decision.

**7:53 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.)

This case was continued from the July 28, 2011 hearing and a site walk was performed on August 11, 2011 and a copy of a layout with 40 space parking dated August 11, 2011 submitted for the file.

There were additional materials submitted consisting of seven pages labeled Boxford Town Library dated 8/24/11 prepared by Schwartz/Silver Architects, a Zoning By-Law Analysis chart dated 8/25/11 prepared by Schwartz/Silver Architects along with a Revised Parking Count Analysis dated 8/17/11 and a memorandum dated 8/19/11 prepared by John C. Dold, PE in regards to Paving of Parking Lot at East Library.

Angela Hyatt said they met with the HDC last evening and would like to now review the facts of the design since the last Zoning Board hearing and the site walk. The design conforms to all ZBL requirements with the exception of one- which is the front yard setback. The Cummings House sits at 39’8” which is not conforming but the addition will be constructed at fifty (50’) feet. They are six feet under the maximum height and fall within the maximum coverage of the building on the lot area. The formula for the number of spaces generated for assembly use in the parking area generates seventy-one (71) spaces; however everyone agrees that is too many spaces; therefore, the design is now for forty (40) spaces. All other portions of the bylaw will be compliant.

They have been working very close with the HDC and every meeting has been well attended and the architect said that they’ve been trying to accommodate and incorporate as many responses as possible. They are not talking about scale and mass with the HDC but working at a detail level of eave overhang, roof lines, and building materials and have at least two more meetings with that Board. They are going over every detail and trying to trim off the fat of the building of what was approved at town meeting (actually a little bit smaller).

Kathleen O’Sullivan-Fortin asked about the size of the pre school room and it is currently thirty (30’) feet shorter than the original design. The Chair opened the hearing up to the public for input and any

additional evidence and stated there is a Planning Board recommendation but wasn't sure if there would be a vote from this Board tonight.

*Nancy Rohlf*s- 21 Cross Road asked about the parking lot and said that last time they spoke about increasing the buffer in the back and that she had seen a drawing that created a different parking arrangement where the spots were closer to the building and the bio filtration area was more in the back. Angela Hyatt explained that they had decided that design was not as safe and the design more like for a supermarket or shopping mall and cars might back into each other. They are trying to make the parking lot safe and not a sea of asphalt. The current design submitted breaks it up into smaller parking areas. Nancy Rohlf said that it is still way too close to the back lot line. Another comment is that the Conservation Commission still must review the drainage and could possibly make changes and if the ZBA votes tonight and finds that something changes it would have to then come back again. Another comment was about the bio infiltration area and wasn't sure whether it's under review with this Board or the Conservation and the Chair stated that it would definitely be regulated under the Conservation Commission jurisdiction.

Dick Corsetti asked about some exterior equipment located on the site plan and it was explained that it is a condenser; generator and transformer on a mounted pad hidden with a six (6') foot wood fence and further stated that the fence design will baffle some of the sound that is generated from the equipment. It is located thirty-five (35') feet from the building and twenty (20') feet from the property line.

The Chair was reminded that the audience was not polled as to whether there were any issues with Dick Corsetti not recusing himself because of his wife working for the library, although he is not sitting on this case and Marc Mercier did say that he personally did not have a problem but would like to raise the possible issue of his ability to influence the Board whether sitting on the case or not and the purpose of the law is to avoid any undue influence. Somebody outside of the room could possible raise it as an issue. Nancy Merrill mentioned that Dick will not be sitting on the case, but deserves to give his opinion as a citizen whether he's sitting on the Board or a chair in the audience. Dick Corsetti commented that the comment he just made really had nothing to do whether his wife was working there 9 hours per week or not working there at all; therefore, he felt that as long as the other members felt it was okay to be present then he was okay too.

*Nancy Merrill* – 20 Cross Road gave a little history about herself and moving into Boxford and consensus on a study committee to create the Historic District in the 1970's. She has been an alternate member to the HDC since 1973. She explained that she wants to speak as a person from the town who was interested in having a historic district. Every house in the district represents a different period in history and she's heard mention of this particular library not fitting in the neighborhood with the historical concept of the village. The village already has a church and a library and is a very important institution for everybody in town. It's going to meet the needs of all people in town. Her feeling is she likes the design, the size and is different; but people just don't like change and change is what's constant. In 50-100 years this building will be historic and representing what we did this year in building it. Very modern structures can be built in a historic district. The HDC is paying attention to the budget also and there must be compromise.

*Matthew Juros* – 2 Lawrence Road member of HDC but since they haven't voted yet explaining to people that he is not speaking on behalf of the HDC, but as an individual citizen. He said that they have covered a lot of ground on this proposal and it has changed pretty dramatically and in a positive process. The architects have taken the spirit of their needs (HDC) to heart and incorporated into their design process. Each meeting has improved from his point of view and there is much confidence for the remainder of the work that is left to do.

*Marc Mercier – 94 Lawrence Road* asked the question if assuming the structure is conforming to the zoning bylaws other than the original Cummings House, does this Board oversee any other dimensional requirements. The Chair explained that site plan review there are six core issues and the ruling will be based on that criteria. If there were any setback violation, a variance would be required; and he went on to explain the requirements pertaining to site plan review. They have to consider whether it's a detriment to the neighborhood and it will all be determined when all evidence is received and a vote is taken. Mr. Mercier asked the exact size of the interior of the building- which Angela Hyatt said approximately 18,300 square feet. The footprint of the building is less than 9,000 square feet for the addition and a little over 10,000 square feet with the Cummings House. The Chair and Vice Chair explained the process for the ZBA collecting evidence and ruling and that it must be a unanimous vote. Three members sit on the Board and vote on zoning issues; not the future needs of the town. That is for a town meeting vote.

*Laura Sapienza-Grabski – 2 Brookview Road* with the Board of Health and the Agricultural Commission. Said in the process of applying for the grant the language reads that applicants should first come to the Boards to determine if a project is the proper size and the proper site could hold and finds it amusing that it's going backward. The project was based on a flawed process because it doesn't take into account there is change in society; technology has changed- there are kindles and nooks, i-pads. It's a shame to put this size of a building in the center of this town. It is now a picturesque little village and we are turning into a mall type space. She respectfully requested the Board look at the needs of the town and think about the future of the town and shrink this addition in half.

Robert Conroy talked about the site walk which was performed on August 11, 2011 and had concerns that were raised with the house at Sayward Road and said in addition to trees being planted there, could they condition a white vinyl stockade fence to protect the abutter and possibly curbing on either side of the driveway to prevent mud holes so that people do not park on the lawn and extend the existing curb that is there.

Kathleen O'Sullivan-Fortin said that she appreciated the flagging for the site walk. It has been shown on recent plans a berm and planting to protect the people on Sayward with lighting. The landscape architect is designing something to be planted which will be three (3') feet in height on top of the berm. It will not have any ill affects on drainage.

Pat Canonica pointed out to the Board that in support of an 11,000 square foot building footprint there will be 27,000 square feet of asphalt.

There was a memo dated August 19, 2011 prepared by John Dold in regard to the paving of the parking lot with pros and cons of asphalt versus gravel/stone and porous pavement. John Dold as the DPW Superintendent is recommending asphalt because it provides safer access, easier cleanup of contaminants and easier to push snow than a gravel lot and it is recommended for the maintenance. Gravel will entail regular maintenance costs and there will be flow into catch basins. Porous pavement maintenance concern is clogging of the pores. DPW uses 3 to 1 sand salt mix and only salt can be used on porous. It will add labor and material and also track in sand from the street onto the parking lot and vehicle oil contaminants.

Robert Conroy read aloud the Planning Board recommendation dated August 24, 2011 with a unanimous vote to deny.

There was discussion on overturning a town meeting vote. William Cargill said that they have to look strictly at Section 196-30 Site Plan review only and not the town meeting vote and that is what they are charged with. Paula Fitzsimmons said she looks at the building and she struggles with the size for the neighborhood. It looks massive. It will completely change the center of the town and never be the same. If she were to vote today based on what has been received as evidence and is not sitting on the case she would vote no – plans before the Board are not yet final. There is not a complete landscape plan – there are no lights on the exterior of the building. We've discussed only parking lot lights. The plans are not complete and it should not yet be voted on.

Kathleen O'Sullivan-Fortin said she has tried to approach this proposal just like every other application that comes before this Board. We don't sit and nit pick a homeowners plans and always evaluate a project according to the code. She is a little unnerved and uncomfortable with this recommendation from the Planning Board. Our job is to sit and evaluate on the bylaw. If people have a problem with that then they can change the bylaw. The number one concern raised is the original parking plan was larger than the plan given to begin with. It is not appropriate to have lights shining on people's property and it has been since changed and is appreciated. The reasons listed from the Planning Boards denial are not part of the zoning process. We never talk about energy conservation and if it prevents pollution to homeowners so we can ignore that point in the recommendation. This is enhancing a pre existing library that sits on land that was given for that particular purpose. Because it's a public building we should not completely take over the process.

Dick Corsetti spoke about the Planning Board recommendation and took each item listed in the denial – design not in harmony with bylaw because too large- very subjective. It could be an issue just the parking lot size but not the structure. Insufficient information – if it was not enough information was supplied, why was the hearing not continued and information requested prior to a vote. Pat Canonica explained they were instructed to take a vote. The administrator wanted a meeting scheduled to vote prior to this ZBA hearing. Dick Corsetti said this Board is not voting tonight so why was it required of the Planning Board. The Planning Board meeting purpose was to vote and said that they had a fairly thorough discussion and several unanswered questions. The architect was there with a thorough explanation of the building. There was a member from the PBC there and there were a lot of blanks that couldn't be filled in.

Bob Conroy talked about population and that it will expand. This structure may be too big for 9,000 but who knows if it's too big for 18,000. We build for the future.

*Preston Galarneau – 4 Roberts Road* with Board of Selectmen pointed out what he thinks is most important is the consideration about future use of technology and how it will impact the library - nooks, i-pads and many other discussions were going on for a long time and very thoroughly before town meeting when the majority came out to support the library. All the information was available to anybody to do research, attend a meeting, read a paper go online, etc. All of that type of information was available then and at the polls. Coming in at this as a Monday morning quarterback is after the fact. If you missed your opportunity to debate the value of what we are considering today you missed that opportunity. Don't let it happen again or now as part of this. These are regulatory boards that are making a decision. You need to take personal feelings about preference of gravel over asphalt or steel roofs or whatever and let the boards do what they need to do in order to ensure that the building is the best building in the town that they have supported.

*Marc Mercier – 2 Lawrence Road* spoke again saying that since the parking lot size is under ZBA determination do members feel this parking lot is the appropriate size. The design of the entire site is built off a program of estimates such as population growth and means of growth the size of the book collection and all of that which was performed back in 2005. So, that's what's driving all this and

should be taken into consideration whether or not those facts are the same facts as today; specifically population at the time depending on who you asked somewhere around the year 2025 the population would be 12,900 and if you ask MVRPC who created that projection it is now nowhere close to that. It's short by about 3,000 people. Those things should be taken into consideration. The facts have changed. We may have made the decision then and the town did vote with the information that was presented. People may have taken into consideration then and now this information is not relevant. Ms. Waltos from MBLC specifically stated the design did not take into account future electronics, media or anything like that because they had not formed an opinion at that time on what the impact will be. We're designing a library and the lot that it goes on and the parking lot all based on outdated information. The program books they use and MGL says what the requirements are for designing for how much square footage needed per 1000 books was set in 1994 which is even older than the information that's available now. Those things may not be a concern of this Board but people may say you're trying to take another bite of the apple or whatever, but that's not the case. It is six years later. Information, society, economy and population has changed and that should all be taken into consideration from every commission on this decision and whether it is the right thing to do for the people of Boxford.

*Heidi Ellard – 15 Forest Lane - Library Trustee* wanted to address comments Marc Mercier and fully respects dedication and involvement in this project but few things mentioned were not quite accurate and would like to make people understand it did start in 2004-2005 but it is not true that the most recent population factors have not been factored in this plan – it's not true that the size has not been reflected in any of these changes; in fact, it has been reduced twice since 2005; the latest iteration was presented at town meeting which included the revised population projections for Boxford which were done in 2008, it also included a review of technology, electronic media. They looked at the space because the building was getting smaller and looked at how to actually utilize the space they had to work with and found that for instance in the reference selection you could reduce close to 40% by turning it digital to move forward into the new building. All advanced technologies and future oriented ideas around what a library can be used for a space for community activities, study space, people to gather especially in a community like Boxford to meet neighbors. A library brings a community together. The size of the building has been looked at thoroughly and the size is driven by the usage of the facility. There are over 700 people that come in to the library weekly. It is quite heavily utilized for such a small town. There is rationale behind what is shown with this design.

*Jane Moody – Library Trustee* said that she hates to keep arguing with Marc but in the end she thinks that we're all going to be happy to have this beautiful building in the village in Boxford. It is more efficient having one building as opposed to having two libraries in one town. For the people that are abutters and living in the village they will enjoy this building and will see that their property values increase. Some of these objections are very, very subjective. We, as the Library Trustees and Solutions Team have done a lot of work and there are no positive comments being made at all and none of the wonderful changes that the architect has made since the start of the project.

*Matthew Juros – 2 Lawrence Road* wanted to direct comments to what the ZBA is reviewing and voting on. There are six categories of regulations to take into account. Five of them are setbacks and numbers to say whether it meets or does not meet, which is empirical. One is subjective and based on judgment. The HDC has a process that they have to work on such as each detail and not with whether the program is appropriate or the size of the building. William Cargill asked when the HDC could be rendering a decision on the project. He was told that they'd like to have the majority of the design at next months meeting or October.

William Cargill said this case is very trying and we will not be voting tonight. As a resident his personal opinion is that the library does need an addition and the current size is not adequate. His

struggling issue is #5 in site plan review which is very subjective with the design and appearance; the size and impact on the neighborhood and he would prefer the HDC vote prior to the ZBA and more people come and give as much input as possible. The biggest thing he's looking at is how it affects the neighborhood, the HDC and the village and whether it is a detriment to that neighborhood. He also thanked Angela Hyatt and said she has done a great job and keeps coming back with revisions.

Paula Fitzsimmons discussed where we are with the plans. She asked about the comment made about the 40% decrease in the reference area and asked Angela Hyatt if it changes the footprint of the building and if the current lines that are shown on plans submitted tonight will not change again. She was assured that this is the actual footprint. She also asked about signage. There is not currently a design and they are hoping to use an existing sign and possibly have a community service project to raise funds for anything additional. Paula Fitzsimmons explained that freestanding signs should be approved now. We are looking for completeness on the plans. Are all of the lights on the building shown? We need final information on these type items before we can take a vote. Before you vote- we need to vote on 100% completeness for the plan, not 50% or 75% you need to know what things will look like. If it's a sound issue, it needs to be addressed. If people are looking for a vote, we will need the final plan for the outside of the building and the lot.

**Motion** Robert Conroy -continue Case #894 until a date certain of 9/22/11 for further evidence.  
**Second** Kathleen O'Sullivan-Fortin  
**Unanimous vote**

**9:35 p.m. Informal** Effie Veres – 2 Upton Lane

Ms. Veres explained that she's been having difficulty obtaining a permit for a temporary pool. It's the type above ground pool (Intex) that you put up in the summer and take down in the winter. There are restrictions at the Andrews Farm development but she did not realize at the time in 2010 she put up the pool that because it was temporary a building permit was required per a site visit and correspondence from Mr. Camacho, Inspector of Buildings, which was at the end of season. He said that next year if she wanted to erect the pool she must apply for a building permit. This year on June 7, 2011 she applied for a building permit and on July 18, 2011 received a building permit denial letter (along with her application) stating that according to the declaration of covenants he cannot issue a permit because the developer is no longer in the picture and the Association has not been active.

Ms. Veres said that according to the covenants, it reads '*no fences or swimming pools of any kind shall be permitted on any lot, unless expressly approved in writing by the DEVELOPER.*' She said that when she contacted the developer, who is also the owner of the Water Company at Andrews Farm Development, he sent a letter stating he can waive it as written in the covenants and forwarded a letter of approval referring to that nature and also that the other trustee of the development Alan Blumenreich resigned in 1991 which was dated July 28, 2011 and also listed the book and pages of the two documents recorded at the Essex South Registry of Deeds.

The Building Inspector still refuses to issue a permit without an appeal to the Zoning Board of Appeals filing according to Boxford code §196-39 and she said that with this letter of approval from the developer she should not have to file for an appeal the building permit should just be issued and she's lost a whole season and can't put one up now since the summer is passed.

Board members looked at the correspondence and asked if she had a fence and she replied that the yard is all fenced and the electrical was approved. When the building inspector came out the first time she was told that the only problem was that it required a permit each and every year so that she

thought once a permit application was filed this year there would be no problem. She would like to be able to have no issues next summer and would like the Board's advice.

The Board members, both Kathleen O'Sullivan-Fortin and Paula Fitzsimmons reviewed and suggested that she get the letter from the developer notarized and a copy of the letter of resignation from the previous trustee and submit to the file for the building inspector so that there will be no problems next year- a special permit and/or appeal is not required.

**9:40 p.m. Informal-** Martin Sholomith – 12 Mortimer Road

Mr. Sholomith was before the Board for an opinion on whether a Special Permit was required to reconstruct a single family dwelling at the site of where his house burned on November 20, 2010. Under §196-7 Restoration, reconstruction, repair of the bylaw when a structure is damaged by fire or natural cause and  $\frac{3}{4}$  of the value is damaged it may be reconstructed if commenced within one year and completed within two years for the date of the occurrence. The original house was non-conforming due to front setback requirements and the reconstruction is a reduction in square footage. The setback from the front will be less non-conforming. Section A of the bylaw states '*Any change or expansion in total square footage, footprint, or dimensions will require a special permit (or variance, if the proposed change or expansion does not comply with the zoning bylaws) from the Zoning Board of Appeals, upon a finding that such change or expansion will not be substantially more detrimental to the neighborhood than the existing structure.*'

After discussion the Board members said that it was a legal nonconforming structure; however, the bylaw states that any change would require a Special Permit. Mr. Sholomith showed a proposed plan to show the changes and that they are not building a stick built house but have ordered a modular home to be delivered October 17, 2011. Board members agreed and stated that it was to be reconstructed with the exact same square footage and in the same location it would only require a building permit within that one year; but there are a couple of changes with the reconstruction; although smaller it still is a change- therefore will require a Special Permit.

William Cargill said that he should file for a Special Permit and go before the Planning Board prior to ZBA and if he could file in time for the September hearing and have a recommendation from the Planning Board in that time frame, then this Board could act on that evening and vote.

Mr. Sholomith also said that he is going before the Conservation Commission on September 1, 2011 so he will follow protocol and get an application filed for the ZBA and get on the Planning Board agenda prior to the zoning hearing.

**Motion** Robert Conroy – adjourn at 9:50 p.m.

**Second** Paula Fitzsimmons

**Unanimous vote**

*Respectfully submitted,  
Paula Meagher*

**APPROVED AS AMENDED 11/17/11**