

**Zoning Board of Appeals  
October 27, 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  
Richard Corsetti, Alternate  
Kathleen O’Sullivan-Fortin, Alternate  
Pat Canonica, Planning Board Liaison  
Paula Meagher, Secretary

**6:37 p.m.**      William Cargill called the meeting to order

**Informal        Kerri Boyd – 5 Bare Hill Road**

Kerri Boyd was present and stated that she would like to open a custom cake business and run out of her home. Her understanding is that the bylaws do in fact allow that but wanted to make sure informally from this Board that it was an allowed use.

The business is an incidental use to the residence, there will be no signage and there will be no people coming to pick anything up. There is no exterior storage and no other employees other than the homeowner. The baking will be done in the kitchen. Hours of operation were discussed and she will be meeting clients either at her house or off premises; therefore, none.

There was a brief discussion and it was agreed that this is a customary home occupation and is a permitted use and clearly incidental to the primary use of the residence. It does not require a Special Permit from this Board.

There were no draft minutes prepared for approval, therefore tabled to the next meeting.

**6:40 p.m.      Case #898      Theodore H. Coogan & Donna M. Ritchie  
32 Baldpate Road**

Special Permit to construct 4’x23’5” addition to existing kitchen on a non-conforming lot from Article III, §196-6 (B) of the zoning bylaw.

**Members Sitting**      Robert Conroy, Chair pro tem  
Kathleen O’Sullivan-Fortin, Vice Chair pro tem  
Richard Corsetti, Clerk pro tem

**Applicant Present**      Theodore Coogan

This meeting was continued from last hearing. Bob Conroy read aloud the Planning Board recommendation with a unanimous vote to grant from their October 19, 2011 meeting.

Kathleen O’Sullivan-Fortin stated that it does not increase the non-conformity of the lot or the structure. It actually decreases the non-conformity slightly because of the angle of the four foot bump-out.

There was no one in the public to speak in favor or opposition of the application.

**Motion** Richard Corsetti – close evidence  
**Second** Kathleen O’Sullivan-Fortin  
**Unanimous vote**

There was no further discussion from the Board.

**Motion** Richard Corsetti –Special Permit be granted for Theodore Coogan and Donna Ritchie to construct 4’x23’5” addition to extend existing kitchen on a non-conforming lot from Article III, §196-6(B) of the zoning bylaw for the premises located at 32 Baldpate Road and finds that it has no further detriment to the neighborhood, it does not increase the non-conformity and that usual restrictions should apply.  
**Second** Kathleen O’Sullivan-Fortin  
**Unanimous vote**

Kathleen O’Sullivan-Fortin will write the decision.

**Motion** Robert Conroy – recess twelve minutes until 7:00 p.m. pending Boxford Library  
**Second** Kathleen O’Sullivan-Fortin  
**Unanimous vote**

**7:07 p.m.** Architect still not present and two cases on agenda in Executive Session therefore Chair requested motion to move to another location for Executive Session instead of moving the public to another room and go back into Open Session upon completion of hearing.

Roll Call Vote to enter into Executive Session for approximately ten (10) minutes for purposes of discussing two (2) cases pending litigation and declare that an executive session is necessary since an open public discussion may have a detrimental to the town and on completion of the Executive Session to return to open session.

William Cargill	yes
Paula Fitzsimmons	yes
Robert Conroy	yes
Richard Corsetti	yes
Kathleen O’Sullivan-Fortin	yes

**7:35 p.m. Case #894 Town of Boxford – Library  
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 “O 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.)

**Additional Materials Submitted** 9/13/11 three (3) letters from abutters; 10/11/11 prepared & submitted by Schwartz/Silver plans dated 10/7/11 consisting of twelve (12) pages (Mechanical, plumbing & fire narratives); 9/21/11 extension form signed for hearing continuance 10/27/11; 10/11/11 disclosure of appearance of conflict of interest (William Cargill); 10/17/11 letter to William Cargill from BOS signed by Chair Peter Perkins; 10/21/11 via email from Ross Povenmire, CC Director (Stormwater Order of Conditions); 10/26/11 letter from Jonathan Mooers; 10/26/11 letter signed by abutters dated 9/6/11; 10/26/11 letter from Preston Galarneau, Jr. dated 10/4/11; 10/26/11 letter from Town Counsel three (3) pages with attachments consisting of eleven (11) pages; 01/27/11 letter from Marc Mercier; and 10/27/11 email letter from Susan Daley listing abutters.

This case was continued from the August 25, 2011 hearing.

The Chair stated that he would like to have Ms. Hyatt provide any additional evidence then open the discussion to library petitioners and then the general public. After that the Board will close evidence, deliberate and take a roll call vote of sitting members only and to move in the positive upon voting.

Angela Hyatt said that they just came from a HDC meeting and gave a brief update of what transpired. There were two items they wanted changed; type of windows in addition and noted on elevation drawing aluminum clad wood windows similar to the same as Cummings Center metal covering wood. Glass is continuous with makes better energy efficiency. HDC would like to see all wood windows; negligible thermal difference and would be a small upcharge but could accommodate. The other change is a cladding result (everything labeled with cedar board and baton siding will be changed to Eastern white cedar shingles. It is barely visible from the public way and is on located on the part that is the furthest from Elm Street. They are luckily the same cost and will accommodate that request.

The HDC took the documents from the 60% construction documents of the architects to prepare a Certificate of Appropriateness and will be ready to vote at their November 9<sup>th</sup>, 2012 meeting.

The Chair asked if anyone from the library would like to come forward with additional evidence but asked to keep to zoning issues and relative to site plan review only due to time constraints.

Nanci Hill, Library Director stated that her comments don’t relate to zoning issues but that she spoke with Rob Maier, Chair of MBLC correcting a little misinformation. The Board stated they have never in the past re-negotiated any contracts. He specifically stated the Town of Boxford if they were to request a smaller building that the contract would then become null and void and the town would have to pay back all of the grant money with interest and then wait twenty (20) years to re-apply.

Angela Hyatt added, relative to other boards and commissions in town, that the Conservation Commission has signed the Order of Conditions.

The Chair then opened the meeting to the public for input.

*Nancy Rohlfs – 21 Cross Road* stated she sent a letter to ZBA signed by all abutters and neighbors in HD and other community members and read aloud. She wanted to add a few facts that have happened prior to reading the submittal. In the Fall of 2010 there were library committee meetings with abutters and the community and at that time looked at a design from an architectural firm that did not get hired for the concept proposal presented at town meeting. These people spent a lot of time with DRA regarding setbacks, parking sizes, water issues and those changes were incorporated into the design and presented at town meeting. A different architect was hired and re-designed the building and did not incorporate those changes. Since the new architect has been hired there have been no meetings with the community or abutters or and the only time she has been able to air her issues is only at these ZBA hearings. Over the years she has sent many letters to the library trustees dating back to probably 2008 regarding concerns and none of them have ever been answered. From the front of the building to the rear of the parking lot it is 318 feet long which is longer than a football field. It will be 25% bigger than the First Church. The current footprint of the library is 3,492 square feet and the new proposal is triple in size at 11,000 square feet. Town hall and the police station are both smaller and share a 72 acre lot. The library lot is 3 acres. The current library is 43 feet from north lot line and closest house to the library. The proposed library is moved closer to this house at 35 feet and the transformer and HVAC unit even closer at approximately 23 feet. During this Special Permit process the neighbors have asked for berms to be at the rear of lot to screen headlights as well as parking closer to the building. She submitted to the ZBA two drawings that Heidi Ellard sent to her and said one of them has parking closer to the building and at a meeting asked for this plan and was told for safety reasons this plan could not be implemented. Almost every parking lot in Boxford is done that way such as Cole School and Town Hall in which now they say is unsafe. Most of the trees in the back of the lot will be cut down to make room for the building, septic system and parking lot. The current trees provide a wind break, shield the light and assist with ground water absorption. While engineered plans can mitigate the possibility of flooding, it does not always work as planned. Samuel Bixby Way is a perfect example of a ground water management plan that has not been successful. The library has talked a lot about LEAD guidelines; they are working to secure funding for a rebate/extra fund if they meet these type guidelines. Guidelines about the site are to carefully locate the building to minimize disruption to existing eco systems and design building to minimize its footprint. Strategies include tuck under parking and sharing parking facilities with neighbors, the neighbors have asked for the commuter lot spaces across the street to offset the library parking lot size and that has not happened. Also guidelines say to site so that there is little impact on the natural environment and as little as possible to the neighbors surrounding a municipal building. Ms. Rohlfs said that she has spoken to a lot of people raising concerns about either having the library moved to another location and or people with concerns on not getting the new library built and she has offered to volunteer her personal time and effort to work out for the neighborhood and the town in raising private donations and or any fundraising efforts.

*Randell Kennedy – 21 Cross Road* spoke at town meeting, trustees, HDC meetings, etc. but first time speaking at ZBA and said all community forums did more to promote project than to be a two way street but they did seem to implement concerns initially he didn't feel so much now. Ninety (90%) percent of the trees will be removed and there will be no noise buffer. There is a trail in back of property and they are constantly picking up trash along this trail and with increased activities and no trees to catch the litter, there will most likely be a lot more trash to be picked up. He read a letter to the editor that the new library will become a new social activity and community gathering building for all residents with lots of extra events, etc. so there will a lot

more litter that will blow into yards of the neighbors instead of the trail. He is concerned about the lighting and that the illumination will be intrusive. The back area represents a catch 22 in lighting- with the design of the library being built mainly in the back to obscure from the main road there will be a large back parking area created and there will be light pollution because it will need to be illuminated at night when there is nobody there and if not lit will become hard to monitor darkened gathering spot next to people's homes. There is no light pollution proposed. He brought it up at an August sitewalk and was assured by liaisons present that the best way to ensure is for him to monitor cars after hours and call the police if necessary. He feels that this now is not a problem and is unnecessarily being created for him and his family and his neighbors. Mr. Kennedy also volunteered to work together with the people of the town and the library trustees to make this project smaller and more reasonable in this same location.

*Marc Mercier – 94 Lawrence Road* Mr. Conroy asked him last time he was present whether he thought the ZBA has the authority to overrule the will of the people. He said that he had time to think about that and wanted to now respond. It is irrelevant but an interesting question to the proceedings. Zoning bylaws are written by the will of the people to be protected from expansive development encroaching on their homes. Regulations are established to protect abutters from unwarranted intrusions on their property regardless of how many people support an approved concept at an annual town meeting and how it might be funded. Now there is a specific plan, not a concept, under review by the ZBA in a specific neighborhood and with specific knowledge on how it will be used now and in the future; how it will infringe on the neighbors and their properties and whether or not this infringement is in fact with the intent of the specific zoning regulations of the town. This determination has nothing to do with the town vote. If it were the will of the people then anything could be built anywhere anytime you vote on it at a town meeting and there wouldn't be zoning regulations to protect abutters. There is a certain level of judgment on the members and their discretion and how the plan impacts the abutters of the neighborhood. This will certainly have some impact on the neighborhood and how much intrusion is justified. He requested the Board take into consideration the full impact of the neighbors in this residential neighborhood and not issue a Special Permit for this project.

*Dorothy Falk – 2 Elm Street* stated that several years ago Adele McConaghy and trustees came and asked for a piece of her land for a very small one story addition to the children's wing. She thought long and hard about it, worked on it surveyed the land and promised that was what it would be used for. She said she was quite dismayed and disappointed with the size of the library that is now being talked about and voted on. It's a big building and the architect has worked very hard to bring it down, but the library is 11 feet taller than the Cummings Building. The town will be impacted by the lighting and the parking lot. There are concerns on many things already brought up.

*Ann Davies – 11 Stanton Circle* purchased home looked at a number of properties only been here a couple of years. Looked at many properties close to town center and in any size town the center be must have certain municipal and community buildings. We decided to purchase farther out of the town center. Unfortunately they pick up other peoples trash on their street, but it's a sad reality but it happens other places in town other than the center. There have been a lot of demands made on the architect and the design and she has juggled many boards and commission and done a great job with trying to accommodate those demands. The bottom line is the library is in the same spot it has been for many years. In regards to size for the new building it is the same height or shorter as the First Church and the multi ministry building.

*Alison Chase – 41 High Ridge Road* asked the question about something brought up earlier "if we break contract we'd have to pay back money and wanted to know how much and if there are other implications." The Chair referred to the Town Administrator to speak on behalf of the town.

*Alan Benson – Town Administrator* said that part of his job to make sure that the towns best interests are protected. It is difficult in this particular process because the town plays two roles- regulator and applicant. If there is a 'no' vote what are the implications? The recommendation for the BOS is that they would have to come up with two decisions 1) appeal the regulatory denial 2) accept the denial and return grant money and the contracts that have already signed with various vendors. Grant money received is \$800K and not all has been spent as of yet. Approximately \$350K has been spent to date, not including what's in pipeline, i.e. Since the last time the building committee paid bills from main vendors---- OPM (town's owners project manager) and architect for the hours of time since last billing and they are entitled to ask for funding. Other vendors are the well and the commissioning agent. So, these are the four contracts that would have to be paid back. The BOS would enter into discussions with the various vendors to end their contract. Obviously their expectations were for us to fulfill our contract and be paid in full. Alan called it entering into a 'close out' fee negotiations with the main vendors. Because we don't have that kind of money the BOS would have to hold a special town meeting and most likely transfer money from free cash and paid back to the state and terminate contracts.

If the BOS chose to appeal the denial it would basically put the entire project on hold while the appeal goes through Superior Court. In the case of the town suing the town you are paying for both sets of attorneys. Because you are attempting to resolve the issue and try not to burden the taxpayers focus issue and reach summary judgment as soon as possible.

If this gets denied the appropriation is null and void. No percentage of money spent could be considered used on a secondary plan should this proposal be denied. The only thing we wouldn't have to do is drill another well, which has already been done, but that is a small amount. If money is paid back to the Commonwealth our credit rating is not affected.

*George Fischer – 37 Kelsey Road* stated he has attended many meetings and wanted to encourage board members to pay attention to the HDC. They are the ones that are responsible in the town to make sure that what is built is in keeping with the character of the town. The people that designed this library have made numerous changes and are in the process of drafting their COA so the style is being ruled by the body in the town that is responsible. A number of people speak about the size. The handicap requirements in a building have to use up extra space. 30% of the floor plan is because of handicap accessibility. The building footprint is not that much bigger when you consider the barn. He has been to every single outdoor event that the library has held in the last two years and there is no litter. Please consider that the events outdoors are well policed. Parking spaces have been vastly decreased from the initial plan from town meeting vote. The design for water runoff has been approved by the Conservation Commission. Please consider an undue hardship of a potential financial burden for taxpayers that the town could be liable for almost \$1 million and he would like to encourage the ZBA say that this design has been balanced to the best interest of the town.

*Steve Davis - BOS* added the state has guidelines for space per person which is 1.5-3 Our library project is 1.9

*Anna Plucinska – 35 Lawrence Road* What the ZBA is supposed to do for site plan review is reasonably protect the legitimate interests of adjoining property owners and occupants... She wanted to remind everyone that the library project has been going on for a very long time. The library concept that was voted at town meeting is not the building that we are discussing now. The architect has done a great job but it doesn't resemble the building that was voted on at town meeting. The HDC has been given a plan to work with. They could flatly say no and then what would everyone do or they could work with what they've got and that's exactly what they've done. Samuel Bixby Way look at the flooding and the water damage problems. She

mentioned the situation with the closest abutter Doffy Falk and said no good deed goes undone- she has lost because her kindness and contribution to the town. Would like to encourage everyone look at the abutters, the town and the historic village and turn into something that is ugly and to please protect our village.

*Suzanne Malach – 17 Sunrise Road* moved here about 10 years ago and have been before this Board to rebuild their home because of mold. She wants to support the library, the town and the abutters. You have historic homes and the ZBA sets the laws and meet the guidelines in regards to setbacks and elevations, water containment, drainage and so forth. We have a charming town and the fact that we have a library that is unusable by anybody in a wheelchair is unheard of, basically because it is the law. She is concerned for the people that work in the library because of mold issues and quality of air and materials in the building which is in dire need of stripping and rebuilding. It is a community center and not just a library. Everyone has a personal opinion about size and volume and it is deemed appropriate based on the needs of the community and guidelines set. The town voted and ruled on building a new library. The one at town meeting was much larger and to her less beautiful to fit into this community. The most important thing to address is the lighting, which looks like a problem. She also stated that the HDC does not have the jurisdiction of the size of a building but that her understanding is that it is a zoning issue. It's not your job to decide if this job goes forward with this, but that your responsibility is that we meet codes and address neighbor concerns. It's the ZBA's job to make sure it is compliant.

*Marc Mercier – 94 Lawrence Road* wanted to comment on the discussion about the costs if we don't move forward with this project. He said although compelling he would like to advise the board not to take costs into consideration and don't base a decision on what's been expended prior to the approval of the zoning board. It should be based on zoning issues only.

The Chair thanked the audience for their comments and said there is a lot of passion on both sides but wanted to remind everyone to keep the issues strictly to zoning only.

*Laura Sapienza Grabski – 2 Brookview Road* In regards to zoning on this property the trustees took a piece of land from an elderly woman to do an addition to the library at one point in time. Perhaps you could recommend they return the land back to her and changing those setbacks. They changed the course of what they planned to do and used the elderly woman in town and now the land has incurred a taking in property value. On that side of the property is where they have the ventilation, heating and a number of structures to decrease her value further with the noise, the lighting and the space. They should give back a buffer strip of this property. She also agreed with Marc Mercier in that it is a distraction to speak about money. Please do not vote on the fear of losing this money already spent.

George Fischer stated that he understood one of things this board bases their decision on is a hardship and it is clearly a hardship in all the money spent. The Chair explained that this proposal is for site plan review and looking at plans on whether or not they are appropriate for this particular site. There are six criteria, although none are hardship and one criteria being subjective, to look at and has nothing to do with the grant or the monies spent.

*Susan Daley – 19 Fieldstone Way* Although she has dreaded saying this the land that Doffy Falk gave was investigated by her sons, looked at by their attorneys, our attorneys. She has documents saying that the land can be used for any purpose. And that any interference was done by the people that gave it. The documents are in town hall and there was no guarantee. She was around at that time and if something was verbally said

to Mrs. Falk she is not aware of it but documents are signed by three sons and herself and the land could be used for any purpose.

*Chuck Costello* – BOS the Board of Selectmen in attempting to preserve the rights of the town have sought advice from Town Counsel on this matter and read aloud the letter submitted and prepared by Katharine Doyle, Esq. of Kopelman and Paige, PC dated 10/25/11 addressed to the ZBA.

Kathleen O’Sullivan-Fortin said after it being read in its entirety that after reading that letter she contacted Attorney Doyle requesting she forward all the case law she based her opinion on and Ms. Fortin thinks that it is premature to discuss the Dover Amendment. She doesn’t think it has any part in tonight’s discussion. She is not a zoning specialist but is an attorney. Much of the case law suggests that, although it does protect educational and religious uses it is not a total blanket free pass. Most of these cases fall upon zoning bylaws that are much more specific than ours such as square footage. Our bylaw discusses design and appearance very vague and general like a check the box terms. Some require a finding where they list size, height and every specific detail of the building besides setbacks in which they can use. She added that she did not want to undermine the legal opinion but that the Dover Amendment needs to be levied upon us as a hammer. Our bylaw is not restrictive enough.

Mr. Costello’s dilemma in looking over is where the jurisdiction of the ZBA and HDC stops and starts. This project is in the Historic district. Bill Cargill said that this is the permitting process and it is before two different boards right now and both could approve or both could disapprove or one could approve and one not, but it is two very different reviews. Site plan review is a Special Permit that is very broad and subjective unlike hearing Special Permits for residential properties that do not require site plan review. A site plan review was the process for the building we are currently sitting in right now. He looks at the HDC as governing their overlay district. Mr. Costello said that he understands that part but can’t get past the design and appearance and thought that these type things like height, color, and other appearances fall under the review of HDC only. Bill Cargill said that in a regular hearing for a residence they cannot talk about aesthetics or things of this nature. The ZBA is a dimensional board. Site plan review does give more jurisdiction and #5 drives toward that subjective nature. Bob Conroy said that there is a third party involved- town meeting and the polls and Bill Cargill said that he agrees and is not discounting but it doesn’t absolve the regulatory process. If legislation were to be decided at town meeting and the polls then you wouldn’t need this type of process such as a zoning board or a planning board or a conservation commission.

*Andrew Klause* – 142 Washington Street stated he is a supporter of the library and has been watching process unfold through the papers and all and you mentioned there is a subjective criteria and there is much conversation about evaluating the town meeting vote. It was a 2/3 vote, which is a requirement to change zoning laws as well. To give a credence that the townspeople voted on the subjective nature of this project and voted to proceed in that location of that size and design and scope and then have the ZBA deny on that subjective criteria there would be a feeling in town that the town meeting was nullified by the Board and it would also permeate and would have a significant impact on how the town conducts its business and would be a dangerous precedent be set. A lot of the issues that are now being discussed were already brought up at town meeting and the town’s people approved and have asked all the town boards to make every reasonable effort to approve what they voted for.

*Peter Perkins* – BOS said he is still a little concerned about the Dover Amendment and it states no zoning bylaw shall regulate or restrict structures for religious or educational purposes owned by the Commonwealth. And the library clearly falls under an educational purpose. He is concerned with the word ‘shall’ since it is a



definitive statement. Kathleen said the Dover Amendment completely takes over this situation. Town Counsel's argument is based in a supreme court of NY case and that the court has found libraries are an educational use and although I completely believe there is education content and learning happening in the library but is not persuaded by case law out of our jurisdiction determining that libraries are de facto educational buildings. If you read the actual language of that decision it is discussing a chartered library provided by the State University of NY it wasn't just a random library at the heart of that discussion. This particular case puts it directly in this basket and that's why the library director has listed every single education program that happens here in our library. These cases are fact specific and distinguishable points but probably not the best argument in the commonwealth in our jurisdiction and getting ahead of ourselves. If we look to our own statute it does not include bulk, height, etc. and this language in the Dover Amendment does not give us the right. Chuck Costello pointed out that this is the argument that our town counsel will be using should there be an appeal with all due respect.

Paula Fitzsimmons said can we just decide that the Dover Amendment is an unsettled matter and tried to steer the conversation back to what this board is charged with and it is to look at the plans in front of us and apply site plan review criteria to it. What she looks at now- is the building appropriate for the site given the criteria that we judge public buildings on when we go to site plan review. She said that she'd rather go through the motions of what we are charged to look at step by step and is it the right plan. Bill Cargill said that is exactly what they'll be doing once evidence is closed.

Preston Galarneau said that in the HDC meetings over the course of the last five months there have been engaged in a process and several meetings made and taken suggestions from people who have gone to them along with experts and the architect has taken into account and made significant changes and lots of material outside considerations. There is clearly an overlap in both boards in regards to modifications for design and appearance which is taken from conception to what is acceptable. Please take into account that everything that has been done so far at these meeting the HDC is ready to prepare their Certificate of Appropriateness because at the end of their last hearing (this evening) there were no other suggestions or comments. They have taken this project which was very different in appearance.

Nanci Milone pointed out that in our annual report the town is noticed as the library and listed as an educational facility.

*Jonathan Mooers – 15 Pearl Road* this is very tense being here tonight. This is pitting people against each other and communities need to work together and have a level of reasonableness with things of this nature. What he saw tonight was a fear tactic presented like it's going to be a million dollars we owe and \$350K and it's going to be your fault if you turn it down. How do you go so far as to accumulate so much money before permitting? The question about drawings, they will be valueless if this is disapproved tonight and that we're going to have to start from scratch. He is an engineer by trade and it really isn't truth in saying that if this is not approved we will have to start everything all over again. He felt what is greatly lacking is that the abutters should be using the bylaw to hold them to the letter of the law. No more added light, noise, water coming over and use this bylaw to protect themselves. Town meeting voted to approve and it is very important, but what was approved was a concept and pay for what was presented. What we voted for was to spend money if it would pass the regulatory boards. This is a huge responsibility and a very difficult process- if you say no there will be consequences if you say yes- the neighbors could react. Please vote your conscience and look at the entire town including the neighbors that will be impacted by this.

*Frank Quackenbush – 13 Cross Road* said there were comments made that aren't proposing what was voted on. The concept they started with is the project they finished with. It was tightened up, made more efficient, more appearance wise more comely and very consistent and smaller and have incorporated all requirements of the strict letter of the law. He did agree though that the subjectiveness can be looked at in many ways. Many comments from neighbors have been incorporated.

Kathleen O'Sullivan-Fortin brought up as a point of order that before evidence is closed we need discussion on outstanding issues that we requested from the architect. If board members want to read through the points and ask questions that would be fine agreed the Chair. Angela Hyatt said they are prepared to address any questions and they have present at the hearing the landscape architect, electrical and mechanical engineers available. If people have concerns they need to be brought up and not dependent on board members. There have been hours and hours of testimony and plans discussed over the last six months.

There was discussion about how the screening will be done for the neighbors and was asked if there would be any type of fencing. Angela suggested a wood fence but it would take the place of the plantings that are suggested such as evergreen plantings. Kyle Zich, the landscape architect said they will be eight (8') foot evergreens that will grow much taller scattered and random which is more naturalistic as opposed to a hedge or a line which will reduce and help eliminate headlights. They will provide protection on the property lines. He pointed them out in the drawings in different spots around the property.

The lighting scheme is full cut off zero foot candle reading at property line and in some cases further in and David Pererra, Electrical Engineer said that they can be dialed down. There is an amount of flexibility. The LED is warmer and the controls can dim down at certain times. It is controlled by a computer program. Nancy Rohlf asked if the police can trump that and say that they need to be turned up for safety reasons. What if you plant the trees and then the deer eat them. Once you've agreed to something and another entity in town can change it after. Just a couple more concerns that the neighbors may have. Steve Davis said that the police cannot control lighting in town- they have to go to the BOS and we would most likely suggest that they are pointed toward the library not away from the library. It was clarified that it would also probably end up back at this board because they can condition protection for neighbors such as timing on the lights such as what time they are turned off. Richard Corsetti said that the police also do check all town buildings every single night.

Dominic Pitello, Mechanical Engineer talked about the condenser, generator and exterior mechanical equipment. He explained decibel ratings and how it relates to noise level. The size of the units will be obscured by the fence around it. 78 db at 10 feet. There is a sound pressure level which is reduced to 70. As fewer condenser fans are used the sound is reduced so mid summer the sound is reduced. The barrier and the distance also helps to reduce the sound level. The abutter is 96 feet away and it would have to comply with the requirements which they can't be 5db greater than the ambient noise levels which is 55. A normal air conditioner is about 75db. It's always a big concern for noise with these type projects and they specify all low rpm fans which run slower and quieter.

**Motion** Robert Conroy – close evidence  
**Second** Kathleen O'Sullivan-Fortin  
**Unanimous vote**

**Discussion** The Chair suggested they go to Planning Board liaison first and the recommendation from their meeting 8/24/11 has already been read into the record at an earlier hearing. Pat Canonica stated that there

was a full board and the vote was unanimous. It was in the library and they wanted to have a recommendation for the ZBA that night. It was a little one-sided and there were a lot of questions asked and the responses were not sufficient; there didn't seem to be enough information coming back from the architects or the library. He said they did discuss the Master Plan 2008 there were several points the project did not address. Protect Boxford's spaciousness and ruralness and to protect the village; we felt the building was too large for the historic center. There was a questionnaire and several town meetings to the townspeople and they talked about repairing east and west library or building a new library in the center of town. That is where we are now. In discussion we felt by locating in east it didn't address people in west.

Dick Corsetti- strictly from a dimensional perspective he looks at the setbacks, height and size and it appears everything is in compliance with everything we do on this board and he would find it very difficult to go against the plan that stands right now. Every question asked we got valid and good answers and cannot find a good reason to deny. He stated that is his cliffnote version of how he feels about it. He is in favor of this project.

Kathleen O'Sullivan-Fortin- In the past six months she's been glad to get comments from abutters and concerns and she feels this is their #1 job to address. Many projects that have come before this board, there are times when abutters disagree and we try to bring them together, but in the end- it is not the abutter who makes the decisions and take the vote. She feels that just because this is a public project it is not any different. We protect concerns to a reasonable affect but at the same time. I feel badly that not everyone is going to be happy with the outcome. We are not a board that dictates style. I sat here for 7 years and looked at ugly, tacky, nice, beautiful, tasteful- it takes all kinds and understand it is numbers not beauty for this board. I don't read site plan review as being discretionary as others on this board feel and we have had discussions in the past about that. I look at the six areas in the bylaw and run down them and I feel we've received sufficient information for standards of the review we carry on the ZBA. # B5 states the word design and appearance I don't read it to allow us to open up a Pandora's box about how we feel about it and the size. Opening site plan review to that kind of determination undermines all of our decisions that we make on this Board. We have boxes and we check them off. We have entertained lots of statements and would point out that it is rare that we have ever allowed anyone to trump a statement of a petitioner. We take it as truth of the matter. We determine based on information given us how we would evaluate the process. I can't see a reason where this goes awry. Our job is to administer the bylaw. I've been disappointed over the past few months that this has become a political circus and that people have used, misused and abused the zoning process to discuss things that have been voted on; you may not have liked the outcome; you might not have gotten the last word or people may change their mind but it has no point in zoning. She does not see an issue with this site plan.

Robert Conroy – this bone has been gnawed enough. Everybody had a shot at it over the years. I think as far as the size is concerned everybody's talking about too large for the village the library's got to last another 20 years. Libraries are built for the future and should last a lot longer than 20 years. Size doesn't bother me a bit and that's the major fallback that a lot of people have. He is ready to vote and does not want to go through it any more.

Paula Fitzsimmons - it's a struggle. Looking at the dimensions it fits into the nice little boxes, but site plan review you've got something else. It gives us design and appearance and if it weren't supposed to be considered it wouldn't be there in the bylaw. I drove around today in the rain, sat on Elm Street and kept trying to picture and I can't go there. There is something about when I look at the roofline I think I have to believe there has to be something that can change and to me it does not fit there. I agree the dimensions fit I

agree with Kathleen we can check the boxes, but part of our zoning it clearly gives us something to consider. It fits all the hard criteria but when I look at it - it just isn't right. The roofline, the close proximity to the neighborhood on the north side, the design on the north side of the building and just cannot picture it in the village. I am not a voting member on this one but would not vote for it. I do not support the design I'm not saying I do not support the size.

Bill Cargill said he is going to hold his comments until the Board goes through the six provisions of the bylaw.

Lengthy discussion amongst board members regarding the six specific criteria of site plan review resulted in the following:

- (1) Evidence sufficiently addressed and are satisfied with parking and loading spaces.
- (2) On site safety of vehicular & pedestrian movement – satisfied with findings
- (3) Off site safety of vehicular & pedestrian movement – satisfied with findings
- (4) Number of parking & loading spaces – reduced to (4) – adequate
- (5) Design and appearance – not unanimous
- (6) Water supply & waste disposal – adequate

(C) Impact on the neighborhood –

Paula Fitzsimmons- overall positive for the town but not convinced that it is positive for the neighborhood and is fairly substantial.

Richard Corsetti said most things have been addressed adequately such as lighting, noise and the neighbors will be affected but there is not enough evidence to stop the project.

Kathleen O'Sullivan-Fortin said bulk of this discussion outside of numbers and statistics has been how we can bring the relationship with this building and the neighborhood. It is not clear that it's all negative- it's not overwhelming positive and she cannot conceive it is all negative. People may think it should be smaller or they have the right solution in their head and cannot imagine over time this wouldn't end up being a positive. There are a lot of people looking forward to this. We should be reasonably regulating- which is what has been done.

Bob Conroy doesn't feel it's going to produce any more traffic during the day. He doesn't feel it will make a major change in the neighborhood. If it is utilized the way the library suggests it might be, it may bring more traffic at certain events in the evening. He doesn't think it would be a detriment to the neighborhood.

Pat Canonica said other than being oversized is the extra 27,000 square feet of paving for the parking lot and he made the suggestion of gravel or macadam but has a real problem with that much paving. Also, the turning cars for the neighbors on Sayward Road why wasn't it further investigated to put parking on Elm and feels forty slots is too many. If you can eliminate parking lot, the neighbors might be more accepting.

Paula Fitzsimmons said letter (C) of the bylaw allows the Board to make certain conditions- is there anything you might want to impose to possibly change your approach. Bill Cargill said that no we are boxed in by the grant. If we were dealing with tax payers money I would suggest it be reduced in size and the macadam but we are locked in with the grant and that was the evidence given. They've met every letter of the law. I think the size is too large for the village, it will have a tremendous impact on the neighborhood and wishes he could

say something different but he cannot. With this particular plan that is presented before this Board he doesn't see how he can support. He's not opposed to a library expansion but not this particular one and hates to see the town lose money. What the town has already spent on the project has nothing to do with zoning. Is this plan appropriate for the site?? No- I feel it's an enormous impact on a quaint village and will have an impact in the future. This Board has always agreed to disagree and usually if somebody disagrees this Board has come together. This is a very difficult decision to make for the town and more weight than one person should carry. I'd love to see an expansion but cannot support this particular petition and will not endorse on a 3.3 acre lot.

Kathleen said this is the size brought to the town determined by – there is some level of expertise the MBLC considers an appropriate library such as size per population. Bill said he does not disagree with the calculations; he disagrees with the size building on that particular lot. It infringes on the neighborhood in a negative way. I said informally before town meeting that I would support a smaller size and have listened to hours and hours of evidence thought about size, use, neighborhood and waited and keep coming back with the same outcome – it was a difficult decision, but simple conclusion in his mind too much mass for a too small size property.

Richard Corsetti moved the question. Bill Cargill called for a roll call vote. Kathleen wanted to say one more thing because she sees people leaving and they know how it's going and it's upsetting. I can't sit here and not comment on the fact that you say it's a heavy burden -- you have given yourself too much of a burden. You are man holding finger in damn. You've lived here a long time; seen more changes, more people contacting you, grown up here, the town has changed. It is always evolving- I have to make a last ditch appeal – the one thing I've learned is the courts frown on zoning boards using too much discretionary authority with respect to educational buildings and so it's hard for me to think that this bylaw is created to allow one vote- Bill said he took an oath of office and know the bylaw pretty much inside and out – I've listened to concerns and neighbors and that's why I make this decision.

Richard Corsetti said he's very disappointed and feels he's bringing to a personal level and so terribly disappointed that he cannot sit on this board any longer and officially will resign this evening. You'll have it in writing in the morning. Kathleen O'Sullivan-Fortin said that they would also have her resignation as well. She cannot put her name on this decision. Some of the commentary at this meeting has written its own appeal and congratulations to town counsel. It is so afoul of the conservative view of the bylaw. She has spent countless nights away from my family and thought I was doing the right thing and cannot believe that all these hours that this is how it comes down. Someone else will have to write the decision in her stead and is sorry they have to part this way but cannot be involved. I know it doesn't change your vote and sorry if it makes the burden harder.

Bob Conroy agreed with her amicable admonition to you. She said it far better than I could. Kathleen stayed to put her vote in officially and couldn't believe preventing this based on gut feeling on its face arbitrary and capricious. Bill Cargill said that he would disagree that it is arbitrary and capricious. If HDC had come and said we loved it would you still say everybody else is wrong and you'd still vote that way? Bill Cargill said it is a tremendous impact to that lot. Your opinion is a nice way to deflect it said Kathleen O'Sullivan-Fortin. Bill Cargill then said: We haven't always been unanimous on votes and this is the most high profile case to come before this Board for as long as I've been sitting on this Board. I did not want to sit on this case and have too much to lose whether voting for or against. I spoke with the Ethics Board on the phone hoping that they would find something so that I would not have to sit. It is a very uncomfortable situation. Your resignation and Dick's is a tremendous loss to the Board.

**Motion** Kathleen O’Sullivan-Fortin- with respect to the application of Town of Boxford requesting a Special Permit to demolish 1981 addition and construct expansion to current public library which will meet current zoning setbacks on the property and site plan review of the zoning bylaw for premises located at 10 Elm Street that the Zoning Board approves the site plan including the most updated form of all submissions.

Robert W. Conroy                    yes  
William Cargill                    nay  
Kathleen O’Sullivan-Fortin    yes

**Motion**            Robert W. Conroy – adjourn 11:29 p.m.

**Second**            Paula Lia Fitzsimmons

**Unanimous vote**

*Respectfully submitted,  
Paula Meagher*

*APPROVED AS AMENDED 4/25/13*