

SHARON ZONING BOARD OF APPEALS MINUTES OF WEDNESDAY, JUNE 10, 2020

LOCATION OF MEETING: In compliance with the Governor's emergency declaration relative to the conduct of public meetings, the Town arranged to conduct board and committee meetings using Zoom video/audio conferencing in an effort to minimize the spread of COVID-19. Interested citizens received directions on how to attend the meeting remotely in the Agenda as posted on the ZBA website and the Town. This meeting was presented with the video and/or audio available for later broadcast. The Zoning Board of Appeals is focused on observing the spirit of the Open Meeting Law during this temporary emergency situation to assure accountability for the deliberations and actions of elected and appointed officials conducting the public's business.

A virtual meeting of the Sharon Zoning Board of Appeals was held on Wednesday, June 10, 2020, at 7:00 P.M. The following members were present as established by roll call: Abe Brahmachari, David Young, Joe Garber, Sam Reef, Steve Cohen. Steve Weiss was not present. Mr. Brahmachari opened meeting noting Covid19 protocols per the Governor of MA and procedural ground rules.

Mr. Brahmachari motioned to approve the minutes from May 13, 2020, and May 27, 2020. Mr. Garber seconded. Unanimous roll call 5-0-0 (Brahmachari, Cohen, Garber, Young, Reef). Mr. Weiss joined the meeting at 7:06 pm.

7:01 PM- Sharon Standing Building Committee, 1 School Street, Case No. 1858, Library -- Continued Hearing

Present for the applicant were: Gordon Gladstone, Sharon Standing Building Committee; James DeVellis, PE, civil engineer, DeVellis Zrein Inc. (DZI), Foxboro, MA; Jeff Porter, Lerner Ladds Bartels (LLB) Architects, Worcester, MA; and R. Drayton Fair, Principal LLB Architects, Pawtucket, RI; John Sayre-Scibona, President, Design Technique, Inc.

Also present: Cheryl Weinstein, Chair, Sharon Public Library Board of Trustees, Sharon, MA

The applicant previously provided the following materials with application: Memorandum dated April 9, 2020, summarizing the Septic System design plans for the proposed library, a Drainage Report and Stormwater Management Plan dated April 14, 2020, from DZI, Inc.; architectural and plot plans originally dated March 25, 2020, and updated April 16, 2020, from DZI and LLB Architects. Also additional/updated documents for the May 13, 2020 meeting: Memorandum to ZBA from Gelerman and Cabral, LLC dated April 22, 2020, RE: One School Street – New Library Project

Newly added documents for consideration included: MA Board of Library Commissioners letter dated May 28, 2020; undated design technique, ZBA CASE #1858 – 1 School Street 35-page email submission from June 4, 2020 in response to ZBA questions; Transportation Impact Assessment Proposed Sharon Public Library, Sharon, MA prepared by Tom Houston, PSC, March 5, 2019; and Pleasant St. / School St. Intersection Supplemental Analysis dated May 1, 2019 by Tom Houston, PCS, Foxboro, MA.

Mr. DeVellis, civil engineer for the library, reviewed a supplemental package with four different items in it referred to as design technique submission as outlined above. It included a clarified Zoning Table (Assessor map 101 plot 47) May 29, 2020, which showed underlying zoning: existing, required,

proposed, status. The lower section showed special permit items in the overlay district/ground water protection. Lot coverage re-labeled building coverage for clarity. And, he mentioned that lot coverage in the Special Groundwater Protection District is defined differently than in the Single Residential B Zone. Septic is oversized for the space.

Mr. DeVellis showed a 70- by 135-foot building with a new parking layout just to show a version of a library that would meet the zoning. They will always need the lot coverage and septic special permits for municipal use, but, everything else conforms to zoning in Plan B. The building is raised up to allow natural light in the basement level as that becomes public space in Plan B. There are more parking spaces, 48. The parking lot is no longer one-way. Interior square footage of Plan A 29,538[±] and footprint of building is 12,000[±] sq. feet. The footprint of plan B is 9,450[±] square feet per floor, 28,350[±] total.

Mr. DeVellis reviewed Appendix A Special Permit Conditions and Worksheet that explains the intent of overlay district in depth and noted that the stormwater mitigation and septic system design is designed to meet and exceed town and state regulations; that town zoning regulations specifically allow this community service use on this site, and the site has historically been a municipal building; that the library meets the intent of the bylaw as it provides adequate access, parking, utilities and landscaping that are appropriate for the allowed and intended municipal use.; no detrimental lighting, odor, smoke, noise. Building height is within approved zoning and Mr. DeVellis spent time looking at other municipal developments as well. Traffic level of service will not change per traffic analysis by PSC, Foxboro MA. The "Water Resource Protection District Special Permits Information" six-page stamped paper from Mr. DeVellis, PE dated May 29, 2020, detailed stormwater management and said that it required 15% impervious, but if that can't be done, design for the one-year storm; the applicant's design exceeded this. Nitrogen needs to be addressed at the state level and Mr. DeVellis checked with the state and they are not at the requirement level for that. They are not required to have test wells, but if ZBA requested such it could be done. Pages 5 and 6 of DZI memo contained in design technique submission shows more details regarding the overlay district. Mr. DeVellis concluded that they completely oversized to make sure they exceeded needs.

And, with discussion about zoning, Mr. DeVellis referenced Town attorney's letter to ZBA saying the setbacks are reasonable considering the entire B zone. The building height is within limits. And, the memo they provided goes through the process for this project through historical district request for facades and entrances. If they have to meet all the regulations for setback and height, they have offered a design B as shown in latest filing from June 5 page 12. To fit light in basement level public space building needs to be halfway out of ground and roof will need to be flat to allow natural light into the space. He explained that the plan is not a threat, but rather a way of representing his client well.

Mr. Fair, lead architect, responded to questions from the last meeting in the Design Technique memo, but wanted to put them on the record. Question 2: Charitable contributions to libraries are classified as educational, so they do feel it meets the Dover Amendment criteria for applicability. The library is classified as an assembly use per the building code, and so are religious buildings which are clearly covered by MGL 40A also classified as assembly buildings. So he stated that this shows the building code is not the arbiter of what the building is used for. IRS classifies donations to libraries as educational use. Mr. Fair does feel MGL 40 A is applicable for these reasons.

Per question 3: To keep the style and appropriateness to the neighborhood they considered hardships. The building went thru a number of different requirements due to Select Board requests, Historical

Commission requests, as well as efforts to really keep the style appropriateness in context to the neighborhood (i.e. not having a parking lot in front of it). They considered these hardships.

Question 5: regarding MGL Chapter 40A Section 3 Paragraph 2 they feel project meets reasonable test to the special permits and variances as an educational use. Per Question 6 BOH does not need variances, but referred to the requirements being met in the special permit. Question 7: There are 30 spaces on site and six spaces on North Main Street so they would need 14 additional spaces to get the 50 spaces. Mr. Garber wondered if 20 spots on High St. municipal lot have been designated for the library with the Select Board? Three years ago Dec 20, 2017, the parking plan was submitted to the Select Board and there was a motion to designate for the grant's purpose 73 spaces and it was unanimously approved the use of the spaces at that time in order to submit for the grant.

And, in a separate answer, Mr. Fine explained that Plan B does meet the 25% lot coverage ratio that is required by zoning. Regarding the special permit for the groundwater protection district for Plan B Mr. DeVellis responded that it's 81%. The ratio required for the groundwater protection is 15% and the overdesign of the septic system was done in consideration of this.

Question 9 responded to traffic flow through the site and explained that the one-way traffic entering in from School St. and out through N. Main Street meant that the headlights would shine across the street to the church in the evening and that was intentional. Mr. Young asked why flow was reversed and Mr. Fair explained that Plan B has room for traffic from both sides, but Plan B is just a diagram, not fully vetted, but just to show what could meet the zoning requirements. Plan B lot coverage for building and asphalt total lot coverage is 81%

7:44 Mr. Weiss left the meeting.

Ms. Weinstein pointed out that they can't do anything with this municipal lot without a special permit, so the responses to the questions assume approval of a special permit. Because without a special permit this lot can't be used for municipal use. We are not looking at 15% impervious materials coverage we are looking at the zoning of 25% lot coverage.

Regarding ZBA questions 10, 11, and 12, Mr. Fine referred the board members to the MBLC letter submitted to cover this. Question 16: there is no evidence of a stream on this property and if person making request has information they would consider it. Question 17. comparing between Town Hall and this lot -- one is business district and one is residential; one is in GWPDP and one is not, see details in report. Question 18: Reiterates lot size issues and points out that in order to build without requesting relief, the building would have to go to three stories of public space.

Question 20. outreach by applicants started in May 2014 through May 2019. Significant May 2016 notification to entire town via warrant to vote on approving the library project and applying for a construction grant passed unanimously. As of August 2016 diagrams for a library at 1 School Street were shown with the indication that variances would be required and the motion passed unanimously to use this site approved by the Select Board. All of these meetings are public meetings. Mailings went out to neighbors in 2017. etc. Selectmen approved parking in an open meeting in December 2016. In 2019, project was turned over to the Sharon Standing Building Committee and all of these meetings are public meetings. Multiple neighborhood meetings requesting feedback for the project were outlined and a six-page spreadsheet from Library Board of Trustees included in the design techniques submission.

Question 21 responded that they have mitigated groundwater protection concerns and preserved the character of the neighborhood and fit the building in to MBLC program requirements while recognizing that the program is what the program is and the site is what the site is. Building is complementary to the neighborhood and met all the requirements of the program. Mr. Fine confirmed they are 50% through construction documents at this point.

Question 22. MBLC submitted a letter responding to concerns about the application process from the ZBA. Mr. Amend stated the application was not in error and furthermore, applicants didn't feel the variances required were significant, particularly in comparison to the lot coverage and setbacks of the current library location. Question 23 Schools, churches and libraries are often found in residential neighborhoods. Does not set a precedent and this is a use that is allowed under the Dover Amendment.

Question 24. Active neighborhood bordered by state roads on each side, near the commuter station and a block away from the town center, but traffic reports show that moving the library a block away will not cause significant change. Ms. Weinstein pointed out that the addendum covers Pleasant Street traffic study. Board received traffic report and addendum May 18, 2020.

Mr. Brahmachari recognized that any municipal building on this lot will require two special permits because combined impervious surface of the building and the parking lot is over 15% and they will need a septic special permit no matter what. Mr. Brahmachari also thanked residents submitting over 30 comments and noted that they were all read. He said ZBA looks at bulk, height, and location of the building.

Mr. DeVellis said use is allowed, but the Dover Amendment is for the dimensional considerations. Mr. Brahmachari disagreed with IRS code for building project. Mr. Brahmachari does not see the hardship yet and he likes Plan B the most.

Mr. DeVellis said original total building coverage is 32% and building plus pavement lot coverage is 74% and total lot coverage on Plan B is 25% building coverage and 81% lot coverage because they have larger drives and more parking.

Mr. Garber felt diagrams don't show real size and density of what is being presented. The library is 50% bigger than the town hall that was built. Ms. Weinstein said Plan B will appear as a larger building, as more of a block, and also closer to the abutters. It was worse for the town in appearance and doesn't go with the area which is the opposite of what Select Board and Historical Committee requested for the project.

Mr. Garber asked about loss of funding if they don't use this spot. He wanted to know about Deborah Sampson and Community Gardens, but 1 School Street was the only municipal lot allowed for the purpose and the use of a library. Mr. Heitin added that from a personal front he didn't understand the massing and the size looking at the diagrams. Mentioned Civil Defense building and changing zoning for placement and also there is only one other possible parcel located on East Foxboro Street that would need to be changed by a town meeting vote.

Mr. Cohen was interested to hear that there might be other lots in the future available, but they aren't currently available. He is in favor of plan A. Plan B might even look more imposing than plan A. And plan B is up against an abutter's property. He thinks plan A is a better plan.

Regarding determining size, Ms. Weinstein explained that if they change the size or the site they lose their funding. In 2009, maybe earlier, the Wilbur School Library option was for 25,000 square feet. Plan B keeps the funding, but it is really a rectangular building because it is within the 35 feet tall. Whereas in the plan approved by the town vote, a lot of the roofline is not at 35 feet.

Mr. Fine explained that in Plan B public spaces would have to move to the basement level, and raising it a third to half a story brings some natural light into that level. Plan B is not fully designed; it is just a diagram that fits the building to the site. They wouldn't put the children's area in the basement for example. They wouldn't put high traffic areas into the lower level, but it would be public space. If they made the parking lot one way could they pull Plan B building away from the closest abutter and reduce the lot size? Mr. DeVellis said they can't because they don't have the parallel parking that was provided in Plan A, they need wider width of parking spaces and room to back out so one-way won't reduce the pavement size.

Mr. Reef clarified that if Plan A isn't allowed, the zoning setbacks wouldn't be an issue, but the special permit would still need to be granted by the board. If Plan A wasn't approved, and the board considered Plan B, and plan be would not be harmonious to the neighborhood.

Ms. Weinstein responded to a budgeting question that they will do everything they can to get the library built. They would have to speak with the Standing Building Committee and the architect to do their duty to get it built for the townspeople who voted for this library.

Mr. Brahmachari said it's not a time to compare plan A and Plan B because they haven't seen elevations or the look.

Paperwork has been filed for the historic commission per Ms. Weinstein and as of August 2021 construction documents must be completed. Have until 2023 to commence construction.

Mr. Gladstone confirmed Plan A is what is in front of the ZBA. He suspects that town counsel would find Plan B was not what was presented at town meeting and a non-starter, although he himself is not an attorney. If they go forward and try to build a three-story building he stated they may find the budget would be inadequate. A three-story building would require a different staffing arrangement. Current design was designed around not increasing library staff by creating site lines.

Steve Cohen said per design technique memo, the additional cost of the redesign would be \$1 million and that is the cost to date that would be wasted. Mr. Fair interjected that Plan B has not been designed yet. It would delay the start of construction. No one knows what the cost of escalation would be. It's about 1,000 square feet less than plan A. It would delay construction and affect the budget in additional ways.

Mr. Brahmachari reiterated the ZBA is looking at location, height, and size of the building. It is not up to them to do budget.

Mr. Steven Smith, 1 Old Wolomolopoag Street and on the Sharon tanding Building Committee but speaking in his own capacity asked Mr. Fair to show size of libraries in area towns: Stoughton, Walpole, Westwood, Canton, and Foxboro all have larger square footage. Second part is that having a third floor - for staffing and looks and parking -- would make it a hardship for the town.

Per Mr. Fair, the Carnegie building cannot be preserved. The façade is the only thing left. Using that required three levels and was turned down by the Sharon Historic Commission. The site is small, septic barely handles existing building. No septic under the streets was proposed for the Carnegie building as they assumed front yard area would contain it. But, no additional storm system.

The zoning would have been far more egregious to what we are looking at now if what Mr. Fair explained was brought to the zoning board according to Ms. Weinstein.

Ruth Bekerman-Rodau, 17 Schools Street, questioned whether hardship is usually about the soil, or the shape or topography of the building or the land? The Chair read the section of the zoning act. Ms. Bekerman-Rodau liked project B better because it doesn't overwhelm School Street. She stated that the neighbors were never asked about the size of the building. With shrubbery and reduced parking, she would discuss plan B. She wants to make sure others do not speak for her.

Mr. Garber said it may be possible to change zoning for land that the school owns on East Foxboro. If the town were to change to the East Foxboro lot couldn't they still get the grant? Ms. Weinstein reiterated that they cannot move the site or they will lose the funding. John Sayre-Scibona, Design Technique, Inc., added that Foxboro lost funding and have been banned from further submissions for grant funds. And, Mr. Gladstone added that the town voted for a particular site.

Howard Spielman, 157 Billings Street, said that the creative ideas of where the library can move is not what he thinks zoning plan is in front of us for. Other Boards and committees have invested massive amounts of time to conclude 1 School street as site. Mike Berkeley, 39 Pleasant Street, expressed that poor communication and handling in the whole project. HE doesn't see the hardships based on definition of ZBA. The building doesn't fit the lot size or the residential area per Mr. Berkeley.

Chair outlined option to take a vote, or option for applicant to take another look at any other option.

Mr. Gladstone, applicant, said in front of the ZBA today is the only building option. Ms. Weinstein questioned the Chair about 40A building codes provide standards for the construction of building, but not being tied into what goes on inside the building. In Chair's opinion the building code dictates the use group of a building. He does not agree with IRS as use in zoning.

Colin Van Dyke, 23 Pleasant Street, Section 1100 of Sharon zoning bylaw says purpose of bylaw "is to prevent the overcrowding of land," and that it is not the ZBA's mission to make sure project proponents don't shoot themselves in the foot.

Mr. DeVellis explained that when they made the application they looked to the town on their review. Gelerman and Cabral, the ZBA attorney's legal review indicated that the library is an educational component and a library is a reasonable use. What they are proposing is only 7 percentage points over what is allowed. They are not overcrowding. There is 25% allowed and they are at 32% -- and it is a municipal use which is allowed. Chair said even if Dover Amendment applied, it didn't automatically give relief to the dimensional requirements. Mr. DeVellis agreed, but pointed out that it is reasonable. Mr. Brahmachari pointed out that they also have 2 variances. Mr. Develis mentioned it's 70' and they are at 50' and it isn't a residential home which is what this zoning is designed for.

Mr. Gladstone requested a continuance. They want an opportunity for the SSBC to make a determination as to whether they want to go forward in any way. They have feedback from an abutter who prefers the plan B option.

Ruth Freeman 66 North Main Street, abutter who shares two side with the library wants to know why a Plan B is being suggested? One million dollars was put into plan A. She feels she has supported fitting library into that space. And Mike. Freeman, 66 North Main Street, wants to know why Plan B was even presented? Mr. Fair responded that the library was always proposed to be built on corner of 1 School Street and North Main Street with variances required. Variances are noted in original diagrams. It was designed to fit into the village with no parking right out in front. It was presented at town meeting two times and virtually the same size as it is now The building has not changed size or location in the last three and a half years. But hearing abutter's opposition to this project, they took a step back and diagramed a building within the zoning requirements – design B shows the building fitting within the zoning requirements.

Mr. Van Dyke asked if a different project could come up under this same ZBA case filing? What will it look like, how much will it cost, what is the end date, it's a burden on neighbors to follow. Chair said developers always have room for addressing comments from neighbors, etc., and SSBC has right to adjust to the feedback.

Mr. Sayre-Scibona explained project is out for qualifications. Construction projects have not been completed and project is not out for bid. He believes this should go back to the SSBC for consideration.

Motion to continue Case 1858, 1 School Street, Sharon Public Library, to July 8, 2020. Seconded by Mr. Garber. Unanimous vote in favor 5-0-0 (Garber, Bramachari, Cohen, Young, Reef). Mr. Weiss was not present at the time of the vote.

The meeting adjourned at 9:33 P.M.

Respectfully submitted

Approved on June 24, 2020