**ZONING BOARD OF APPEALS**

MINUTES

Public Hearing – Regular Meeting

**March 15, 2018**

7:30 P.M. Main Level Meeting Room

**MEMBERS PRESENT:** Mr. Bowman, Mr. Catlin, Mr. Wyant, Mr. Peterson, Mr. Horan

**ALTERNATES PRESENT:** Mr. Wildman, Mr. Gunnip, Ms. Kaplan

**STAFF PRESENT:** Mr. Ajello, Ms. White

**OTHERS PRESENT:** Mr. White, Mr.Cava, Mr. Bedini, Ms. Freidman, Mr. Barnet, Ms. Ryland, Mr. Templeton, Mr. Tagley, Mr. Carriera, Mr. & Mrs. Buonaiuto, Mr. Hardy, Mr. Meredith, Members of the Public

**PUBLIC HEARING(S):**

Mr. Bowman called the meeting to order at 7:30 p.m.

Seated: Mr. Bowman, Mr. Catlin, Mr. Wyant, Mr. Horan, Mr. Peterson

**ZBA-1056: Request of Kaestle Boos Architects for Regional School District No. 12/159 South Street/Variance from Section(s) 11.5 Maximum Lot Coverage, 11.7 Maximum Building Height, 12.1 Wetlands and Watercourse Setbacks, 16.4.1 Residential District Signs, and 15.2 Number of Parking Spaces – To build proposed Agriscience STEM Academy Additions and Associated Renovations at existing Shepaug Valley School:**

Mr. Cava, member of the Regional School District 12 Board of Education, and Chairman of the Building Committee, introduced Mr. White, Architect from Kaestle Boos Associates.

Mr. White submitted the record of the notification mailing that was sent out the surrounding neighbors of the subject property and displayed the Site Variance Request Plan from the plan set entitled “New Agriscience Stem Academy Additions & Associated Renovations”prepared for Shepaug AGSTEM-Regional School District 12, by Kaestle Boos Associates, Inc. sheet L0.01. He stated that he would be discussing all five variance requests. He gave a brief overall description of the project.

It was noted that there will not be a decrease in the structures that exist.

Mr. White addressed the variance requested for Section 11.5 – Maximum Lot Coverage. He informed the Commissioners that the existing lot is 67.9 acres and stated that the existing lot coverage is 16.3% which is 6.3% above the maximum allowed 10% in the R1 Zoning District. Mr. White explained to the Commissioners that Region 12 is requesting an increase of 13% for a total lot coverage of 23.3%. He noted that this is an institutional use allowed by Special Permit in a residential zone and it would be difficult for a school to be within the 10% lot coverage maximum when there are ADA, Building Code and emergency accessibility requirements to areas of the campus.

Mr. Bowman asked what was included in the applicants' lot coverage calculation.

Mr. White responded that the horse ring was not included. He noted that the Town regulations require any pedestrian surface that is granular, and any vehicular way would be included.

Mr. Catlin asked if there are any calculations indicating the percentage of lot coverage that is building structures and what part is impervious accessory areas of the 23%.

Mr. White responded that the impervious surfaces are being redistributed to improve accessibility. He roughly estimated that 20% of the coverage is building and 80% impervious surfaces.

Mr. Bowman asked if the same amount of impervious surface would be required to bring the property to code if the Equine Building were not being proposed.

Mr. White responded that the proposed design was program driven but that the proposed paved areas would be required to bring the existing school and campus to code.

Mr. Cava stated that the topography of the site forces the design to include the switchback driveway which requires more paved area. He noted that the American with Disabilities Act requires an accessible path "virtually everywhere." Mr. Cava stated that a school requires wider sidewalks than a residential property. The building was built before the ADA requirements and wider paved areas are necessary to meet the code. He noted that the whole campus must meet ADA requirements which was not the case when the building was built.

Mr. White addressed the variance requested for Section 12.1 - Wetlands and Watercourse Setback. He noted that the Inland Wetlands Commission has approved this proposed project. Mr. White explained that they are proposing accessible pedestrian pathways around the fire pond and reaching to the other elements of the school building. He stated that they are proposing to add to the paved area around the pond and a retaining wall along the very edge of the 50' setback to create a level area for animal turnout.

It was noted that the pond was man made and other wetland areas were created from stripping the top soil off the property during the site work when the school was being built years ago. The water from the pond comes from the roof and paved area runoff which will now be improved with water quality measures with this proposed plan.

Mr. White pointed out that graduation platform will be relocated closer to the edge of the fire pond to create a nice backdrop for the ceremonies.

Mr. Bowman asked how the animal waste will be dealt with given its proximity to the pond.

Mr. White responded that they are proposing a strict maintenance program and the manure will be contained in a covered dumpster and then removed from the site. He noted that this is not a regular farm and there will be a limited number of animals. Mr. White explained that there will be grassy swales that will act as natural filtration into catch basins.

Mr. Cava stated that the washing stations and all things to care for the animals will be under the proposed equine building roof. He informed the Commissioners that this building will have a separate septic system than that of the main school building.

There was a brief discussion regarding how many and what kind of animals will be in the equine building. Mr. Cava stated that the students will be responsible for the animals and this is a 12-month program. He discussed the huge emphasis this program will have on science.

It was noted that the existing wells and the current septic system will remain. The septic system was oversized to begin with and has been underutilized over the years and rests between academic years.

Mr. White addressed the request for variance of Section 11.7 - Maximum Building Height. He noted that the maximum height is 40' and the applicant is proposing a 40' 9" height for the proposed Equine Building. The Commissioners looked at the cross section drawing of the proposed Equine Building (on file in the Land Use Office). Mr. White pointed out the height of the actual building is 40' from the finished floor to the peak. Based on the Zoning Regulations, the existing grade and the proposed grade, the total building height is 40' 9" so the applicant is requesting a 9" variance. He stated that the cupola on the top of the building is a ventilation monitor. Health and safety regulations dictated the size of this ventilation monitor and the roof pitch.

Mr. Cava stated that he had asked the architects why the roof could not be lowered and he was told that a lower pitch in the roof would not allow enough air to circulate.

There was a discussion as to what would be housed in the Equine Building. It was noted that there would be a riding area, stables, classrooms, animal grooming area, etc. The proposed building would have multiple uses for the program.

There was a brief discussion regarding the dimensions of the footprint of the proposed Equine Building.

Mr. Cava stated that originally, they planned for more than one building for different components of the program but then decided to house them in one large building. He explained that it would reduce cost, number of buildings, amount of disturbance and lot coverage on the site.

The Commissioners and Mr. White estimated that the proposed Equine Building was approximately 138' wide and 240' long. Mr. Cava and Mr. White explained the different areas in the Equine Building.

There was discussion about the size of the spaces that will be needed for the different components of the AgSTEM program.

Mr. Cava stated that adult education will take place in these areas and the AgSTEM program will be a resource to the community. He pointed out areas of the existing building that are being repurposed for this program.

There was a brief discussion regarding the grade and the topography around the Equine Building.

Mr. White addressed the variance request for Section 16.4.1 - Maximum Site Signage. He explained how they are proposing way finding signage that are post mounted and with 2" tall text to improve navigation and safety on the site. Mr. White stated that there will be building mounted signage with pin lettering. He pointed out that the zoning regulations allow 4 sf of signage, the existing entrance sign is 37 sf and they are proposing 199 sf for a 195 sf variance request. They are proposing 6 way finding signs, 3 building mounted signs and the entrance sign. The way finding signs will not be illuminated but will be reflective.

Mr. White addressed the variance request for Section 15.2 - Maximum Parking. He stated that the auditorium has 583 seats and the regulations call for 1 parking space for every 3-5 seats. There are 194 existing spaces and they are proposing 291 spaces which results in an increase of 91 parking spaces.

Mr. Cava stated that Shepaug Valley School has both the auditorium and a gymnasium and there are many times that events are happening simultaneously. He said they are redistributing some of the parking from the main parking lot to the front because that is where people park for events. The instances when the parking has been inadequate, people park their cars the grass along the driveway or on the sidewalks. He noted that faculty park in front of the school and the students park in the side parking lot. He discussed how the different parking areas would assist in the accessibility of certain areas of the school for specific events while other areas of the school will not be accessible.

Mr. White noted that ADA parking is distributed all over the different parking areas.

There was continued discussion regarding the reconfiguring of the parking area in front of the school. It was noted that the parking area will be physically from the bus lane. Mr. Cava pointed out that there will be a brief period of time during the school day in which the buses will be travelling through the newly proposed lower front parking area.

The entrances to the building will remain as they are and will maintain the security systems that they have currently.

Mr. Cava explained that they are proposing to add accessibility to the whole site because of the requirements of the ADA and this contributes to the lot coverage calculation.

Mr. Catlin asked if there are any future plans to add on to the site that will need to come before the ZBA.

Mr. Cava replied that they do not have any other plans for other additions in the future.

There was a brief discussion regarding the construction schedule. Mr. Cava informed the Commission that they would like to site work this summer. He stated that there are various required submissions to the State throughout the construction processes. He included that the DEEP will be monitoring the stormwater runoff. Mr. Cava said they would like to go to bid this spring and are on a tight schedule.

Mr. Bowman opened the floor to the public.

Ms. Ryland of Washington stated it was mentioned that the emergency access for fire vehicles was required but she was told that this is being done because the applicant wants to avoid putting in sprinklers which would be an alternative to the extra paved surfaces.

Mr. White responded that safety is a major concern for the school and the ability for emergency vehicles to navigate around the school is very important. He stated that it is strongly advised to have an emergency vehicle accessible loop around the entire school. He informed the Commission that there will be an underground water storage tank associated with this project to supply the school's sprinkler system.

It was noted that without the proposed improvements of the school, if the school were to be built today it would be required to be fully sprinklered and a loop road around the school and ADA access would be required.

Ms. Ryland stated that it is her understanding that the public would be able to use the new additions to the property in the context of classes. She asked if the public would have access to the horse ring to bring their own horses.

Mr. Catlin stated that this was not a discussion related to the variance requests.

Ms. Ryland asked if the horse ring is a Vo Ag requirement by the State.

Mr. Cava stated that it is part of the State approved program that Region 12 School System will be offering. He included that it will not be just a horse ring and that it will be used for all animal demonstration.

Ms. Ryland asked if it was accurate that with the proposed increase of 97 parking spaces if only 12-13 spaces are for the AgSTEM program.

Mr. Cava stated that the additional parking is necessary because of the simultaneous activities that occur on the campus. He added that adding more of the parking to the front of the building was a decision that was made because that is where the demand is.

Ms. Ryland closed her comments by stating that she opposes this variance request for particular reasons that will be articulated by a number of others that are in attendance this evening.

Mr. Tagley of Sabbaday Lane, asked for clarification of what the square footage is of the proposed additions. As a member of the Board of Education, he recalls that they were told there would be an addition of 30,000 sf. He asked if the square footage was at 30,000 sf or if it was more.

Mr. Cava stated that this is the same project that was presented to the Board of Education and nothing has changed.

Mr. Catlin stated that he did a very rough calculation and arrived at the existing square footage of coverage as approximately 500,000 sf and the new additions would add approximately 170,000 sf.

Mr. Cava stated that they were able to get the square footage of the additions. He informed the Commission that the Equine Building is 26,000 sf, the north addition to the school is 8,500 sf, the south addition, including the greenhouse, is 3,300 sf. He noted that the total might be slightly larger than 40,000 sf because that may be a net number and not a gross number. Mr. Cava explained that most of the proposed added coverage is impervious surface areas.

Mr. Catlin stated that based on this information that Mr. Cava just discussed and his rough calculations, he arrived at 37,800 sf of additional building. He concluded that the requested additions are only about 20% of the requested lot coverage request.

Mr. Bowman stated that even if without the additions, in order to bring the school up to code they would be looking to add at least half of what is being requested for the impervious surfaces.

There was a brief discussion regarding how the building would be built if it was a new construction.

Mr. Carriera, of New Preston Hill Road, asked if the riding arena was part of a program choice.

Mr. Cava stated that it is part of the curriculum and has been designed into this program.

Mr. Carriera asked if it would be fair to say that the applicant’s hardship is based on this choice.

Mr. Cava responded that it was not and that the hardship is there because of various things related to the topography, the requirements, including ADA, and regulations that have changed since the property was built. The actual percentages might actually be less because there is school property across the street and the street is not owned by the town. He discussed title law regarding the abutting property across the South Street that Region 12 owns. He stated that this is an institutional use in a residential zone and a school or hospital requires more coverage than a residence. He noted that if this school was in a business zone it would be under the 25% allowable lot coverage.

Mr. White stated that he did have the overall dimensions of the Equine Building as 227’ by 145’.

Mr. Carriera asked the applicant if the State made them put a riding ring in or was that a choice the applicant made in an application.

Mr. Bowman stated that he feels that is a programmatic question.

Mr. Carriera stated that he feels it’s germane to whether there is a self-created hardship. He said that it was the applicant’s choice to include this in the AgSTEM program.

Mr. Cava stated that that was a question for someone else and he is here as the Chairman of the Building Committee for Region 12.

Mrs. Buonaiuto asked Mr. White to trace the trajectory of the bus route again. She stated that she did not see how that was safer because it would be going through the proposed lower parking area and people would be pulling out into the bus lane.

Mr. Cava explained that it is safer than what exists and no plan is perfect.

There was a brief discussion regarding angled parking in the lower parking lot. They discussed how at different times in the day or for different events this is an improvement as to what exists.

Mr. Barnet from Sabbaday Lane read his letter to the Zoning Board of Appeals dated March 15, 2018 regarding the variance requests for Region 12 School District. He does not feel there is a hardship and if there is a hardship it is based on a want or need of the applicant and it is not consistent with the Town’s POCD. (letter on File in the Land Use Office).

Mr. Hardy from Frisbie Rd stated that he abuts this property. He noted that he did not get a certified letter. Ms. White stated that they are sent Certificate of Mailing. Mr. Hardy expressed that he is in opposition of this request and that it will be noisier during more days of the week. He stated that his house is 400 ft from the property line.

The Commission looked at the map and location of Mr. Hardy’s house.

Mr. Bowman asked when Mr. Hardy moved to his property on Frisbie Road.

Mr. Hardy responded 1999.

Mr. Bowman confirmed that the school was already there.

Mr. Meredith of Davenport Road asked why ZBA can’t consider programmatic elements with these variance requests. He asked if the ZBA can’t consider the program for the utility of the buildings, wouldn’t it be approving something that the Board of Ed just wants and it is nothing to do with hardship. He noted that only 3-6% of the classes at Shepaug will be part of this program.

Mr. Horan asked Mr. Meredith to consider the horse ring and the time we have taken to discuss what goes into a horse ring tonight. He said that they discussed the program because it had to do with the size of what is necessary to conduct the programs in that building. The ZBA cannot judge the program but they can consider if the design fits the program.

Mr. Meredith stated that he does not understand how you can establish hardship when there is no data supporting the benefits.

Mr. Bowman responded that the ZBA does consider the program when making decisions. He used a garage as an example and that the ZBA would consider the size when an applicant comes before them because they know how much space is needed.

Mr. Catlin stated that there are other schools in Washington and one has come in front of the Board because of lot coverage issues. We look at the project as a whole, the needs and if what is being proposed meets the needs. He noted that these schools are institutions in residential districts and it would be difficult to conform to the residential regulations.

Mr. Bowman interjected that of all the schools in Washington, Shepaug is less dense than the others.

Mrs. Buonaiuto stated that she has sent letters to the “sending towns” to ask how many students they think would be using this program. From the responses, she concluded that it would be less than 80 students. She feels that this is a big build out for less than 80 students.

The Commissioners feel that the number of students is not part of considering a hardship.

Ms. Ryland asked if the ZBA would assume there is a need for the school without having them present evidence of hardship.

Mr. Catlin stated that hardship is land-based.

Mr. Bowman stated that land-based hardship is not the use and use of the property is handled by the Zoning Commission.

Mr. Cava addressed the issue of this program being consistent with the POCD. He feels the comments made before were referring to the Comprehensive Plan of Development which is different from the Plan of Conservation and Development. He stated that this program is consistent with the Comprehensive Plan which anticipates schools.

Mr. Cava addressed the issue of hardship. He stated there are several reasons why there is so much lot coverage; 1. The lot coverage regulation came in after the school was built. When regulations change it creates a hardship for the existing property. 2. The topography requires the snake like driveway. 3. ADA requires pathways and roads that allow emergency vehicles to get the all areas of the campus. 4. The building height of the Equine Building is 9 inches taller than the maximum because it requires a certain size ventilation system. 5. The school was built before wetland watercourse setbacks were required. All the pond was built to provide water in case of emergency and the other wetlands were created during the original site work when the top soil was stripped off. 6. Sign regulations that exist do not take into account institutional use and a school requires more signs than a commercial property. 7. The parking regulations came into effect after the school was built. He concluded that the hardships are related to the property and the laws that have been created after the school was built.

**MOTION:** To close the public hearing for application ZBA-1056: Request of Kaestle Boos Architects for Regional School District No. 12/159 South Street/Variance from Section(s) 11.5 Maximum Lot Coverage, 11.7 Maximum Building Height, 12.1 Wetlands and Watercourse Setbacks, 16.4.1 Residential District Signs, and 15.2 Number of Parking Spaces – To build proposed Agriscience STEM Academy Additions and Associated Renovations at existing school, by Mr. Catlin, seconded by Mr. Wyant, passed 5-0 vote.

**Meeting:**

Mr. Catlin stated that he is not passing any judgement on the project but looking at what has been presented as a ZBA application. He feels that there is a land-based hardship and that there is a preexisting nonconformity, what is being proposed is reasonable in scope, ADA supersedes the Town’s regulations, the proposed plan has been approved by the Inland Wetlands Commission, the proposed signs are clearly within the spirit of the regulations, the Equine Building is taller than the maximum allowed because of the ventilation system, the parking is not an unreasonable request and under Section 15.3.2 gives the ZBA the discretion to increase the parking. He feels the Zoning Regulations have not been updated for schools and he supports this application.

Mr. Wyant stated that he has an issue with the large increase in lot coverage for the proposed project and he does not feel there needs to be more parking. He noted he is in support of the other variances but the overall lot coverage is leaning him towards not supporting this application.

It was noted by the other Commissioners that the majority of the lot coverage increase comes from the ADA required and Life Safety pathways.

Mr. Peterson stated that he agrees with Mr. Catlin. He is looking at only what has been presented to the ZBA. He does not feel that the height of the building is not an issue, he believes there is a hardship because they are trying to repurpose and existing school to meet today’s standards. He is in support of the application.

Mr. Horan stated that he is in favor of all the variance requests. He feels the rationale for additional parking is appropriate, the property is awkward and he feels a best effort has been made and is reasonable and justified.

Mr. Bowman is in general agreement with what the other Commissioners have said. He feels that what is being proposed for site signage is appropriate for a school, he is not concerned with the 9” over the maximum building height for the Equine Building, and the project has been approved by the IWC. He noted that his biggest concern is the jump in lot coverage but he understands why it is necessary for ADA and safety reasons. He agrees that the Equine Building is large. He stated that this is a difficult site and the site plan addresses the needs but is modest.

**MOTION:** To approve ZBA-1056: Request of Kaestle Boos Architects for Regional School District No. 12/159 South Street/Variance from Section(s) 11.5 Maximum Lot Coverage, 11.7 Maximum Building Height, 12.1 Wetlands and Watercourse Setbacks, 16.4.1 Residential District Signs, and 15.2 Number of Parking Spaces – To build proposed Agriscience STEM Academy Additions and Associated Renovations at existing school per plan set entitled “New Agriscience Stem Academy Additions & Associated Renovations”prepared for Shepaug AGSTEM-Regional School District 12, prepared by Kaestle Boos Associates, Inc. pages L0.00-L0.01, Drawings 1-7, sheet A1.00 and sheets A5.01-A5.04 dated 2/22/2018, by Mr. Bowman, passed by 4-1 vote. Mr. Wyant voted against.

**DISCRETION OF THE CHAIR:**

Mr. Bowman wanted to discuss a previously denied application for the property located at 214 West Shore Road. He stated that he drove by the property and the structure was gone. He explained that this was the house of an applicant that the ZBA had previously granted a variance several years ago for a one story cottage. The property owner came back April 2017 and proposed removing the existing building and replacing it with a high efficiency super modern house. He remembers that the ZBA objected to this request.

Mr. Ajello stated that this was correct and the applicant withdrew their application. He noted that the ZBA did grant a variance for a garage across the street.

Mr. Bowman asked what happened to the house.

Mr. Ajello stated that they came to him with a plan that was within the existing footprint. They tore down the house leaving one foundation wall standing.

Mr. Bowman stated that he understands that the demolition permit was issued in August 2017 and there were no new plans submitted to building and there was a signoff by Mr. Ajello.

Mr. Ajello stated that they did submit plans to Zoning and he would review them with Mr. Bowman in the office. He explained to the Commissioners that if there is no increase it doesn’t require a variance.

Mr. Catlin asked if it was being built identical to what was there previously.

Mr. Ajello responded that it would be smaller.

Mr. Bowman stated the it was a preexisting nonconforming building.

Mr. Ajello stated that he had reviewed this application with Mr. Solley, Chairman of the Zoning Commission. The property owner did not tear the building down completely. He said that zoning was satisfied that they stayed within the same footprint and the proposed plan was smaller in volume than the original.

Mr. Bowman stated that this is a Special Permit permitted under section 6.4 and Special Permits require a public hearing (Section 13.1.B.1). He explained that his concern about this is that the property owner knocked down a preexisting nonconforming house and they do not have the right to replace it.

Mr. Ajello stated that he didn’t remember but it was very possible that the entire house is within 50 ft of the lake, in which case 6.5 doesn’t apply.

Mr. Bowman asked why they came to the ZBA originally.

Mr. Ajello responded that the came to the ZBA originally for a variance for an enlargement. He explained that Section 6.5 is talking about activity that is within 50-75 feet of Lake Waramaug.

Mr. Bowman stated that it was his understanding that Zoning signoff was based on Section 6.5, which requires a Special Permit which requires a public hearing.

Mr. Ajello stated that this is an extremely small house within 50 ft of the lake.

It was discussed that in order to get a demolition permit from the Building Department the property owner would have to have sign off from the Zoning Department.

Mr. Bowman asked if someone advised the property owner that if they demolish a preexisting nonconforming building that they do not have the right to replace it.

Mr. Ajello stated that this subject is discussed extensively in Zoning. He said the Zoning Regulations were modified in August.

Mr. Bowman stated that the demolition was in June.

Mr. Ajello stated that there was no expansion and the property owner didn’t completely remove the structure.

The Commissioners and Mr. Ajello continued the discussion and the ZBA Commissioners feel that the property owners are required to come before the ZBA because they demolished a preexisting nonconforming building and they plan to rebuild.

**CONSIDERATION OF THE MINUTES:**

The Commissioners considered the minutes from the 01-18-18 regular meeting and 02-15-18 regular meeting.

**MOTION:** To approve the Regular Meeting Minutes of the ZBA dated 1-18-18 and 2-15-18, by Mr. Wyant, seconded by, Mr. Horan, passed 5-0 vote.

**ADJOURNMENT**

**MOTION:** To adjourn the meeting at 10:45 p.m. by Mr. Wyant, seconded by Mr. Catlin, approved by 5-0 vote.

**Recordings of this meeting are available in the Land Use Office upon request.**

**Filed Subject to Approval.**

**Submitted by:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Shelley White, Land Use Clerk

March 22, 2018