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Shaughnessy
Uitti LLC**

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SHARON, MA 02067

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2021 DEC -7 P 2:47

Via Federal Express

Clerk's Office
Land Court Department
3 Pemberton Square, 5th Floor
Boston, MA 02108

**RE: Michael Freeman v. Joseph Garber et al.
NEW MATTER**

Dear Sir/Madam:

Enclosed for filing please find the Complaint and Civil Action Cover Sheet for the above-referenced matter. Also enclosed please find a check in the amount of \$255.00 to cover the costs of the filing fee, and a Copy of the Complaint.

Thank you for your assistance.

Sincerely,

MIRRIONE, SHAUGHNESSY
& UITTI, LLC

/s/ Gregory Fleming
Gregory Fleming, Esq.

Enclosure
cc: Michael Freeman

Office Locations

Main Office – Use for all correspondence
2 Batterymarch Park, Suite 302
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Tel. (508) 510-5727 ■ Fax (508) 857-0751
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Office Hours: Appointment Only

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss:

LAND COURT DEPT.
CIVIL ACTION NO.:

MICHAEL FREEMAN)

Plaintiff,)

v.)

JOSEPH GARBER, CHAIRMAN,)
ABHIJIT BRAHMACHARI, STEPHEN WEISS,)
as they are members of the TOWN OF SHARON)
ZONING BOARD OF APPEALS, SHARON)
STANDING BUILDING COMMITTEE,)
and the TOWN OF SHARON,)

Defendants.)
_____)

COMPLAINT

This is an appeal made under M.G.L. c. 40A § 17 and concerns the Town of Sharon Zoning Board of Appeals' ("ZBA") granting of the Sharon Standing Building Committee ("SSBC") request for approval for a new public library at 1 School Street, Sharon, MA ("Property") in violation of the minimum lot area requirement set forth in Section 4533 of the Town of Sharon Zoning Bylaws ("Zoning Bylaws"), and percentage of lot coverage set forth in Sections 2433 and 4535 of the Zoning Bylaws.

JURISDICTION

1. This Court has jurisdiction over this dispute under M.G.L. c. 40A § 17.

PARTIES

2. Plaintiff, Michael Freeman is a Massachusetts resident with a home address of 66 N. Main Street, Sharon, MA 02067.

3. Defendant Joseph Garber, Chairman, is a Massachusetts resident with a home address of 83 Deerfield Road, Sharon, MA, 02067.

4. Defendant Abhijit Brahmachari is a Massachusetts resident with a home address of 592 Massapoag Avenue, Sharon, MA 02067.

5. Defendant Stephen Weiss is a Massachusetts resident with a home address of 27 Livingston Road, Sharon, MA 02067.

6. Defendants Garber, Brahmachari, and Weiss are or were members of the Town of Sharon Zoning Board of Appeals during all times relevant hereto and are named only in their capacity as members of the Town of Sharon Zoning Board of Appeals.

7. Defendant Sharon Standing Building Committee is an instrumentality of the Town of Sharon, Massachusetts with an address of 219 Massapoag Avenue, Sharon, MA 02067.

8. Defendant the Town of Sharon is a municipal corporation with an address of 90 South Main Street, Sharon, MA 02067.

FACTS

9. The Property known and numbered as 1 School Street, Sharon, Massachusetts and identified as Parcel ID No. 101047000 per the Town Assessor' s records, is municipally owned land and is the location of the Town of Sharon Police and Fire Museum. The Property is located on the corner of School Street and North Main Street near the center of Sharon.

10. The Property is within a Single Residence Zone B Zoning District (“District”) in the Town of Sharon.

11. The Property is also in the Water Resources Protection District.
12. The Property consists of approximately 38,293 square feet.
13. Michael Freeman is an abutter to the Property.
14. The Property is subject to the current zoning regulations detailed below.

Specifically, that the Property has a minimum lot size of 60,000 square feet; minimum front yard setback of seventy feet from the South Main Street centerline; minimum front yard setback of fifty feet from School Street from the centerline; percent lot coverage for the Single Residence B zoning district of 25%, and percent lot coverage for the groundwater protection district of 15%; and natural vegetation required in the groundwater protection district is 40% of the lot. See Sections 2433, 4533, and 4535 of the Zoning Bylaws.

15. Section 1100 of the Zoning Bylaws provides: “It shall be the purpose of this bylaw to lessen congestion in the streets; to conserve health, to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land...”

16. Via its application, SSBC propose to erect at the Property a 29,538 square foot two-story building with a footprint of 12,000 square feet (hereinafter, the “Project”). The parking area provides for thirty parking spaces. SSBC propose that the front yard setback from South Main Street be fifty-two feet, where the minimum is seventy feet. SSBC also propose that the setback from School Street be thirty feet, where the minimum is fifty feet. SSBC propose that the Project have 76% lot coverage, where the maximum is either 15% or 25%. Finally, SSBC propose that no natural vegetation be provided, where 40% of the lot is required.

17. SSBC initially applied for lot dimensional relief from the dimensional lot coverage and groundwater requirements of the Zoning Bylaws on April 13, 2020.

18. On November 5, 2020, the ZBA denied SSBC's application, which SSBC appealed to this Court under the name of Town of Sharon Board of Library Trustees.

19. On September 2, 2021, the Court granted a motion for summary judgment filed by the Town of Sharon Board of Library Trustees and annulled the ZBA decision dated November 5, 2020.

20. The Court ordered that the ZBA, inter alia, balance the usefulness of the Project as a Dover Amendment-protected educational use against any compelling municipal interests that are served by the Sharon Zoning Bylaw. The Court further directed the ZBA to file with the Sharon Town Clerk a supplementary decision that explains its decision to either approve the project "as is," to approve the project with reasonable limitations necessary to protect the compelling municipal interests, or to deny the project with an explanation of the reasons for its decision.

21. After remand back to the ZBA, public hearings were held on October 13, 2021 and October 20, 2021 before the ZBA regarding SSBC's renewed application. At the October 20, 2021 hearing, the ZBA directed Town Counsel to draft a decision granting said relief and to incorporate conditions consistent with the issues discussed at the hearings.

22. On November 17, 2021, the ZBA met and considered the draft decision prepared by Town Counsel, at which time the ZBA unanimously voted to adopt that decision to grant SSBC approval to construct the Project despite its violations of the above referenced Zoning Bylaws.

23. The ZBA filed its Decision with the Town of Sharon Clerk on November 18, 2021 (hereinafter, the "Decision"). A certified copy of the Decision is attached as **Exhibit A**.

24. The ZBA issued the following unsupported opinion in the Decision: “In imposing these conditions, the Board has balanced the reasonable regulations that may be accomplished without diminishing or detracting from the usefulness of the proposed project.” (Decision at p. 4).

25. The Decision is unsupported by the evidence before the ZBA.

26. The Decision is legally untenable, arbitrary and capricious, and it exceeds the authority of the ZBA.

27. Plaintiff is aggrieved by the Decision including, but not limited to, the following reasons: the lack of parking due to the oversized building will lead to patrons of the Project to circle the parking lot in an attempt to park next to the library and avoid having to park in the proposed satellite lot which would require said patrons to cross a main street which will cause excessive noise and light and disturb Plaintiff’s enjoyment of his property; excessive exhaust from circling and idling motor vehicles which will result in the polluting of Plaintiff’s air at his property; an adverse impact on the trees that line Plaintiff’s property due to the proximity of the expanded parking; and an adverse impact on a right of way Plaintiff has granted to others as a result of the failure to provide natural vegetation.

28. The Decision fails to state how it conducted the balancing test and what findings were made as a result of said balancing test.

29. As evidenced by Section 1100 of the Zoning Bylaws, quoted in Paragraph 15 above, the purpose of the Zoning Bylaws is to lessen congestion in the streets, to conserve health, to secure safety from fire, flood, panic and other dangers, to provide adequate light and air, to prevent overcrowding of land.

30. In its non-existent balancing test, the ZBA failed to recognize how the lot dimensional relief sought by the Project would worsen the issues the Zoning Bylaws seek to address.

31. The ZBA made no specific findings relative to the compelling municipal interests with regard to the Project being too large for the Property.

32. SSBC is trying to maximize the Property's buildable area instead of constructing a smaller structure in conformity with the Zoning Bylaws.

33. The Project's dimensional relief will cause substantial detriment to the public good and substantially derogate from the purpose of the Zoning Bylaws.

34. In light of the foregoing, the ZBA improperly granted the dimensional relief as it failed to conduct the balancing test demanded by this Court.

COUNT I – APPEAL PURSUANT TO M.G.L. c. 40A §17

35. Plaintiff restates and realleges the previous allegations in this Complaint.

36. Plaintiff is aggrieved by the Decision granting SSBC dimensional relief.

37. The ZBA failed to adequately articulate in the Decision the existence of circumstances related to the detrimental impact on abutters, such as the Plaintiff, with regard to noise, light, and excessive exhaust from vehicles.

38. The ZBA failed to adequately articulate in the Decision how due to the existence of such circumstances a literal enforcement of the Zoning Bylaws would involve substantial hardship, financial or otherwise, to the Library.

39. The ZBA failed to adequately articulate in the Decision how the requested dimensional relief could be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Zoning Bylaws.

40. The ZBA failed to make appropriate determinations in the Decision.

41. The Decision is based upon legally untenable grounds, is unreasonable, arbitrary and capricious, and violates applicable law.

42. Accordingly, under M.G.L. c. 40A §17, the Decision should be annulled, and SSBC's application for dimensional relief should be denied.

WHEREFORE, Plaintiff respectfully requests this Court enter a judgment for Plaintiff, which:

- a. Annuls the Decision of the ZBA;
- b. Denies SSBC's application for dimensional relief;
- c. Awards Plaintiff's attorney's fees and costs; and
- d. Awards Plaintiff any further relief this Court deems fair and just.

Respectfully submitted,

MICHAEL FREEMAN,

By his attorney:

/s/ Gregory J. Fleming
Gregory J. Fleming, BBO# 568630
gfleming@msullc.com
Mirrione, Shaughnessy & Uitti, LLC
2 Batterymarch Park, Suite 302
Quincy, MA 02169
(508) 510-5727

Dated: December 7, 2021

EXHIBIT A

RECEIVED
TOWN CLERK
2021 NOV 18 10 47 28

DECISION AFTER REMAND FROM THE LAND COURT ON APPLICATION FOR
SPECIAL PERMIT

APPLICANT: Sharon Standing Building Committee, Case No. 1858
PROPERTY LOCATION: 1 School Street

By application ("Application") filed with the Sharon Town Clerk on April 13, 2020, the Sharon Standing Building Committee (hereinafter the "SSBC" or the "Applicant") petitioned the Town of Sharon Zoning Board of Appeals for lot dimensional relief from the dimensional, lot coverage and groundwater requirements of the Sharon Zoning Bylaw for the proposed Sharon Public library.

These are as follows:

1. Minimum lot area, Section 4533, Special Permit, S4540, 4521
2. Minimum front yard, Section 2434, Variance, S6222
3. Percentage lot coverage, Section 2433, Variance, S6222
4. Percentage lot coverage, Section 4535, Special Permit, S4540, 4521
5. Natural vegetative cover, Section 4535, Special Permit, S4540, 4521

Property is located at 1 School Street and is situated in the General Residence Zone and is also within the Historic District 1 and the Groundwater Protection Overlay Districts.

On July 8, 2020, the Zoning Board closed the first public hearing and voted to deny four of the five requests for zoning relief. The Board's initial decision on this matter was voted on November 5, 2020 and filed with the Town clerk that same day. The Applicant filed a timely appeal with the Land Court, and subsequently on May 21, 2021, filed a motion for Summary Judgment seeking that the Board be Ordered to grant the relief requested, and/or annul the decision and remand the matter to the Board for a new hearing. On September 2, 2021, the Court issued an Order of Remand and Decision on Plaintiff's Motion for Summary Judgment annulling the Board's initial decision, denying the motion for summary judgment and ordering the Board to conduct a new hearing within sixty (60) days, i.e. beginning no later than November 1, 2021, to file a supplementary decision no later than thirty (30) days after the close of that public hearing and ordering that all of the preceding occur within ninety (90) days, i.e. by December 1, 2021.

In accordance with the Court's Order, the Board opened a public hearing duly noticed under the applicable statutes and bylaw provisions on October 13, 2021 and continued to and closed the hearing on October 20, 2021. The hearings were opened remotely via Zoom video/audio conferencing in compliance with the Governor's emergency declaration relative to the conduct of public meetings. The voting members were the Chairman, Joe Garber, and members Abe Brahmachari, and Steve Weiss.

On October 20, 2021, the Board voted to grant the requested relief, and directed Town Counsel to draft a decision granting said relief and to incorporate Conditions consistent with the issues discussed at the hearings of October 13 and October 20, 2021. At a duly noticed public meeting held on November 17th, 2021, the Board met and considered the draft decision prepared by its counsel. Upon a motion made by Mr. Garber, and seconded by Mr. Brahmachari, the Board

voted (3-0) to adopt that decision as the Board's findings, determinations, and conditions.

MATERIALS

The following materials were, inter alia, submitted to the Board prior to the initial decision, and are incorporated herein included plans with the Board of Appeals (collectively called "Plans"): 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.

New documents for the June 10, 2020, meeting included: MA Board of Library Commissioners letter dated May 28, 2020; undated Design Technique, Inc. package, 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.

Newly added documents for consideration for the July 8, 2020, meeting included: a letter from Lerner Ladds Bartels, Pawtucket RI RE: Case #1858 – 1 School St. Sharon Public Library dated June 25, 2020, and a letter from Gordon Gladstone, applicant, Sharon Standing Building Committee Chair, received via email Wednesday, July 1, 2020.

At the opening hearing on May 13, 2020, the Zoning Board of Appeals and the Applicant reviewed the following correspondence, which had been received in connection with the Application: a legal ad that appeared in the Times Advocate on April 29, 2020, and May 6, 2020; a Memo from the Agent of the Board of Health, Kevin Davis, dated April 27, 2020; and a letter from the Conservation Administrator, John Thomas, dated April 29, 2020.

Newly added documents for the September 30, 2020, meeting included: application 1858 A dated September 15, 2020. Letter from Brian Winner, Mead, Talerman & Costa, LLC, attorneys for the applicant, Millis, MA dated September 25, 2020.

Additional materials submitted for the October 13 and October 20 included a written statement from the Chair of the SSBC, a PowerPoint presentation from the Trustees, as well as various Concept Site Plan depicted both the proposed location of the Library on the site and various alternative locations of the Library on the site, and several communications from neighbors.

Project Description and Location Description

The project consists of the construction and occupancy of a new public library, to be developed by the applicant, the SSBC, on behalf of the Sharon Board of Library Trustees, (Trustees") each of which are public entities of the Town of Sharon (the "Town"). The overall measurements are for an 83 foot by 162 foot two-story building with partial basement containing an approximate total of 29,462 square feet, with a footprint of +/- 12,000 square feet. The parking area provides for 30 parking spaces. According to the Town's assessor maps, the lot contains 38,293 square feet. Said lot has frontage on two streets, So. Main Street and School Street. South Main Street is a heavily travelled arterial road (Route 27). School Street is a local road with a paved width of 22

feet. Access is proposed to be entirely from School Street and egress is entirely onto North Main Street. The proposed lot is abutted by single-family homes and the properties directly across School Street are also single-family homes.

A copy of the plan, modified because of the hearings of October 13 and 20, showing the project and the lot is attached hereto and incorporated herein as Exhibit 3.

The application is not in compliance with the following dimensional zoning requirements from which relief has been requested:

1. The lot size is 38,293 square feet, and the minimum lot size requirement in the groundwater protection district is 60,000 square feet.
2. The minimum front yard set-back requirements in the Single Residential B district are 70' from the North Main Street Centerline, and the project, as proposed, would be 42'.
3. The minimum front yard setback requirement from School Street is 50' from the centerline, and the project, as proposed, would be 30'.
4. The per cent of lot coverage for the Single Residence B zoning district is 25%, and the per cent lot coverage for the groundwater protection district is 15%. The project would have 76% lot coverage.
5. Natural vegetation required on the groundwater protection district is 40% of the lot, and there would be effectively no natural vegetation provided.

Project Background and Financial Considerations

The proposed project has a lengthy history. The Library Trustees presented a grant application to the Massachusetts Board of Library Commissioners (MBLC) for the 2016-2017 round of general construction projects. The MBLC made a recommendation for a grant award of \$7,485,943 of the total estimated project costs of \$17,750,528, of which \$16,632,633 would be grant eligible. The cost delta to be raised by the town through borrowing was \$9,146,690. At the town meeting held on May 26, 2019, the town voted to appropriate the sum of \$18,000,000, subject to the required proposition 2½ debt override (M.G.L. Ch 59 section 21C). By ballot vote on May 21, 2019, the required borrowing was approved.

Legal Standard for Board's Review and Applicable Facts

a. Dover Amendment

The Board was advised by Town Counsel that the proposed use as a library is an educational use and enjoys the protections afforded by the Dover Amendment M.G.L.A. c. 40A Section 3. Also, the use of the proposed building is allowed by the Town's zoning by-laws, Section 2312.b. Accordingly, the Board is required under the Dover Amendment to balance where possible, the proposed use as requested against the harm to critical needs of the community which the proposed project might threaten or impede. The Conditions listed below are therefore the result of the Board's Findings related to the bulk, height, impact, and size of the building on a lot that is small in comparison to the proposed building and is located in a residential area and zoning district.

Although the application for relief noted the need for a special permit for groundwater protection, for lot coverage percentage, and for natural vegetation requirements, and sought variances for the set back and additional lot coverage issues, the Board notes that compliance with the by-law requirements for either a special permit or a variance are not strictly applicable to a protected educational use, but rather the Board is required to make the balancing test outlined above. The Board has followed the following citations regarding the Dover Amendment.

“Accordingly, what is of relevance to the Board’s determination, however, is the “proviso to the statute that authorizes a municipality to adopt and apply reasonable regulations concerning bulk, dimensions, open space, and parking...” *Trustees of Boston College v. Board of Alderman of Newton*, c. 58 Mass. App. Ct. 794 (2003), *citing Trustees of Tufts College v. Medford*, 415 Mass. 753, 757, 616 N.E.2d 433(1993). Further, it is the applicant that has the burden to demonstrate that “compliance with these requirements would substantially diminish or detract from the usefulness of a proposed structure . . .without appreciably advancing the municipality’s legitimate concerns.” *Id.* at 759, 616 N.E.2d 433.”

FINDINGS

1. The Board, and each voting member of the Board, are personally familiar with the location of the proposed project and the neighborhood where the site is located.
2. The proposed building is in a single-family residential neighborhood.
3. The project is sited on a lot that is too small for the size and bulk of the building.
4. The number of allotted parking spaces on the lot is less than recommended for uses of this size.
5. Each of the above findings can be addressed and their impact ameliorated through the Conditions stated below.

DECISION:

In imposing these Conditions, the Board has balanced the reasonable regulations that may be accomplished without diminishing or detracting from the usefulness of the proposed project. Accordingly, each of the Conditions are designed to lessen the impact of the project through regulation of bulk, noise, fencing, landscape provisions, hours of operation, lighting control, possible blasting controls, and requiring that persons in the neighborhood are advised of the construction progress and have a manner with which to bring problems during construction to the attention of the SSBC’s contractor.

VOTE BREAKDOWN October 20, 2021 meeting

Mr. Garber made a motion to close Case 1858, 1 School St., Sharon Public Library Seconded by Mr. Abe Bramachari. The Board approved the motion unanimously 3-0-0 (Brahmachari, Garber, and Weiss).

Mr. Garber made a motion to vote on the application of the SSBC seeking lot dimensional relief, coverage relief and groundwater protection relief from the requirements of the Sharon Zoning Bylaw for the proposed Sharon Public library in Case No. 1858, 1 School St. Sharon Library as follows:

Mr. Bramachari seconded the motion.

The Chairman, Mr. Garber, asked for a vote separately for each request.

The **VOTE** of the Board, (Garber, Bramachari, and Weiss) in each instance was to **GRANT** the relief requested and was unanimous:

1. Minimum lot area, Section 4533, Special Permit, S4540, 4521 Board **GRANTED**
2. Minimum front yard, Section 2434, Variance, S6222 Board **GRANTED**
3. Percentage lot coverage, Section 2433, Variance S6222 Board **GRANTED**.
4. Percentage lot coverages, Section 4535, Special Permit, S4540, 4521 Board **GRANTED**
5. Natural vegetative cover, Section 4535, Special Permit, S4540, 4521 Board **GRANTED**.

For the reasons stated above, the Board requires that the project comply with the following Conditions:

CONDITIONS: 1. GENERAL

- 1.1 The construction of the new Library as presented in the application, hereinafter the "Project" shall comply with all applicable rules, regulations and by-laws of the Town of Sharon, including, but not limited to the Board of Selectmen, the Board of Health, the Conservation Commission, the Commonwealth of Massachusetts and Federal Agencies as they apply to the construction of the Project, and the State Building Code unless variances, waivers or similar relief is granted pursuant to local, state or federal regulations.
- 1.2 The SSBC shall comply with all applicable regulations issued by the Commonwealth of Massachusetts relative to the existence of hazardous waste located on the Site, including compliance with the provisions of M.G.L. Chapter 21E and other applicable government codes.
- 1.3 The SSBC shall, if required, file an Environmental Notification Form ("ENF") under MEPA covering the entire Project and any required Environmental Impact Report ("EIR") prior to the commencement of any construction except for Project Site preparation, which may commence prior to the final issuance of the EIR decision if authorized by the Secretary of Environmental Affairs.

2. CONSTRUCTION PHASE RESPONSIBILITIES AND MITIGATION

- 2.1 The SSBC, through its contractor, shall work with the Town to coordinate an integrated approach to permitting and inspections.

The SSBC, through its contractor, shall prepare and submit a Construction Management Plan ("CMP") to the Board and to the building inspector. The CMP shall address all

aspects of construction mitigation, including, but not limited to: (i) blasting; (ii) provisions that meet the prior approval of the Fire Department and Police Department for traffic flow and emergency vehicle ingress/egress within the Project, and their access and egress to and from public ways; (iii) stockpiling of materials; (iv) trucking routes that meet the prior approval of the Police Department; (v) a concise construction mitigation and sequencing plan; and (vi) an erosion control plan. It shall also include best management practices and which shall include, at a minimum, days and the week and hours for construction activities (including interior and exterior work and/or site preparation, drilling, blasting, etc., which address pre-construction site preparation, construction control during construction, and through substantial completion and close-out, and which shall, at a minimum, include provisions for documenting existing conditions for which damages caused by the general contractor will be mitigated, as well as E&S controls, dust controls, noise, odor, emissions, vehicle idling, vibration, trash or debris, and/or any other condition which may constitute a nuisance by virtue of litter, vermin or bird hazards. Provisions for water/fire suppression and safe, uninterrupted, and convenient access to adjacent properties/homes shall be always provided. The CMP shall attempt to minimize the area(s) left exposed at any given time to the extent reasonably possible. The Board shall review the CMP provide comments and recommendations within fourteen (14) days. The terms of that CMP are incorporated herein as if restated in this Decision and shall, except as modified elsewhere herein, at a minimum comply with the requirements below.

3. CONSTRUCTION REQUIREMENTS

- 3.1 The library building shall be located as shown on Exhibit 3
- 3.2 The project shall provide a six-foot-tall fence as depicted on Exhibit 3
- 3.3 Whereas an eight- to ten-foot-wide landscape strip on the School Street side of the Project, and an additional ten-foot-tall landscape strip adjacent to 66 N. Main St. , and on all other abutting properties, is financially infeasible and materially conflicts with several construction and design elements, the landscaping of the Site shall conform with the "Landscaping Plan" attached hereto and incorporated herein as Exhibit 3 and also the Tree plan attached as Exhibit 3-A.
- 3.4 The project shall contain native plants from New England in the landscaped areas depicted on Exhibit 3 on all sides of the Site. All fertilizers, pesticides and herbicides used at the Premises shall be organic and of the low nitrogen content variety.
- 3.5 Site lighting is to be designed and installed substantially as shown on the Photometric Plan which is attached hereto and incorporated as Exhibit 3.5. Site lighting shall utilize low height poles restricting light within the site. Building Signage shall be as approved by the building inspector in compliance with the Sign Bylaw. All parking lot lighting and building lighting shall not allow light to flow off the property onto the surrounding neighborhood. All light shall be kept far enough away from direct abutters property lines so as not to cast lighting onto their properties. Parking lot lighting to be turned off within

30 minutes of the library closing or 30 minutes at the end of after-hours programming. After hours lighting shall be limited to lighting required for security.

- 3.6 Traffic flow on the site shall be as approved by the Fire chief and the Police chief.
- 3.7 All external equipment that will cause noise on the exterior of the building, such as air conditioning compressors and heat pumps shall comply with MassDEP's Air Quality regulations for sound in force at the time of building permit application. All generators shall be located behind appropriate screenings for the purpose of diminishing sound that leaves the site. The SSBC, through its contractor, shall comply with the Town's noise by-laws, including without limitation, Sections 195, and 300.
- 3.8 Typical hours of construction shall be from 7:00 a.m. to 5:00 p.m. Monday through Friday. When exceptions occur, proper notification will be provided to the appropriate parties, including the police chief and posting on the website described below in section 3.9
- 3.9 A construction progress website shall be maintained by the SSBC, though its Owners Project Manager, to address all construction, including a schedule of construction, construction progress reports, and the name and contact information of the Owners Project Manager's on-site representative so that said person can and will use best efforts to address in a professional and timely manner all concerns of residents and/or municipal employees of the town. In addition to compliance with the requirements of the Sign Bylaw, Construction signage shall be as required by the Massachusetts Board of Library Commissioners and maintained in visible site to all persons passing by the site.
- 3.10 Silt fencing, absorption materials and measures to catch site runoff shall be employed and maintained as described in the Contract Documents as well as the Drainage Plan submitted to the Board. Police detail(s) shall be provided as determined by the Chief of Police. A septic memo is attached as Exhibit 3.10A.
- 3.11 The premises shall be equipped with water conserving faucets and water conserving flush toilets.
- 3.12 The septic system shall meet all current requirements set forth by the Sharon Board of Health. The septic system shall be maintained in accordance with the requirements of the Sharon Board of Health.
- 3.13 Snow and ice mitigation and treatment shall be in accordance with current Town DPW practices and guidelines.
- 3.14 Leaders or roof gutters must be directed into the infiltration system.
- 3.15 The SSBC through its blasting contractor shall, in addition to the foregoing, comply with the applicable provisions of M.G.L. ch.148, sections 13 and 19, 527 CMR 13.00 ff, all other applicable regulations, by-laws, and statutes, and the orders of the Fire Chief

4. **OMITTED**

5. **MISCELLANEOUS**

- 5.1 References to building permit(s) contained herein refer to permits associated with the Project, but do not mean permits associated with Site preparation, foundation, or utility work.
- 5.2 The SSBC shall cause to be permitted and cause to construct the Project substantially in accordance with all the documents submitted as part of its application, including, without limitation, the plans and specifications. If any changes are required as a result of future design considerations, engineering, site conditions (including topography and geotechnical matters), or local and state permitting process and/or similar such matters, and those changes materially affect the bulk and/or height of structures, or the yard sizes, setbacks, open space, parking and/or building coverage, the SSBC, and/or its contractor, representatives or agents as may be appropriate, shall return to the Board for implementation of those changes. Nominal or *de minimis* changes not materially affecting the bulk and/or height of structures, or the yard sizes, setbacks, open space, parking and/or building coverage will not require review by the Board.
- 5.3. Successors and Assigns: The SSBC may not assign the rights and obligations contained in this Decision without notifying the Board and providing appropriate contact information, provided however that, during construction, the SSBC shall remain liable for each obligation, undertaking, and commitment required herein of the SSBC, its contractor and agents.
- 5.4 Notices

Unless otherwise specified herein, all required Notices hereunder shall be deemed sufficient if sent registered mail to the parties at the following addresses:

Board: Zoning Board of Appeals
 Town Hall
 90 South Main St.
 Sharon, MA 02067
 Attn: ZBA

with a copy to

Richard A. Geleman, Esq.
Gelman & Cabral, LLC.
30 Walpole Street
Norwood, MA 02062

Applicant: SSBC

Town Hall
90 South Main St.
Sharon, MA 02067
Attn: SSBC

with a copy to:

Mead, Talerman and Costa, LLC

730 Main Street

Millis, MA 02054

Attn: Brian Winner, Esq.

For the purposes of this Section, the date of receipt shall be the date of mailing.

- 5.5 The SSBC, and/or its contractors and representatives, shall not be in breach of any of the conditions herein for so long as they are unable to complete any work required hereunder due to a force majeure event or other events beyond their reasonable control. If the town's building inspector believes that a breach exists, he/she shall give written notice of the same to the SSBC, and/or its contractors, agents and representatives as may be appropriate, and give them a reasonable period to cure such breach before taking any action on the same. In rendering this Decision, the Zoning Board of Appeals notes that the Special Permit issued hereunder shall expire within twenty-four (24) months (exclusive of the time required to pursue or await the determination of an appeal referred to in M.G.L., Chapter 40A, Section 17) from the grant hereof if a substantial use thereof has not sooner commenced, except for good cause, or in the case of a permit for construction, if construction has not begun by such date, except for good cause.

Appeals, if any, shall be made pursuant to M.G.L. Chapter 40A, Section 17 and shall be filed within twenty days after the date of the filing of this Decision in the Office of the Sharon Town Clerk.

This Decision shall not take effect until a copy of the Decision bearing the certification of the Sharon Town Clerk that twenty (20) days have elapsed after the Decision has been filed in the Office of the Sharon Town Clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, is recorded with the Registry of Deeds for the county and district in which the land is located and indexed, in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

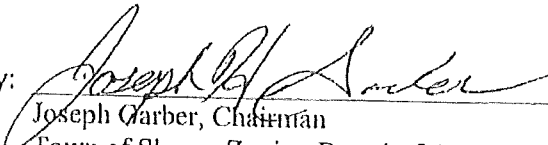
IN WITNESS WHEREOF, the undersigned has executed this instrument under seal as of the date set forth below.

By:  11/18/2021
Joseph Garber, Chairman

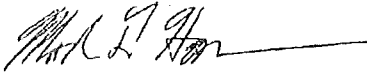
Town of Sharon Zoning Board of Appeals

Dated: November 18TH, 2021

I, Joseph Garber, Chairman of the Town of Sharon Zoning Board of Appeals, hereby certify on behalf of the Town of Sharon Zoning Board of Appeals that the foregoing is a true copy of the Decision of the Sharon Zoning Board of Appeals and that certified copies of the Decision referred to herein have been filed with the Planning Board and the Town Clerk.

By: 
Joseph Garber, Chairman
Town of Sharon Zoning Board of Appeals

Filed in the Office of the Town Clerk on the 18th day of November, 2021.


Mark F. Hogan, Town Clerk

I, Mark F. Hogan, Town Clerk of the Town of Sharon, hereby certify that the foregoing is a true copy of the Decision of the Town of Sharon Zoning Board of Appeals dated _____ and filed with the Office of the Town Clerk on _____ and that twenty (20) days have elapsed after the date of such filing without the filing of any appeal on such Decision.

Dated: _____

Mark F. Hogan, Town Clerk