

**MINUTES**  
**ZONING BOARD OF APPEALS**  
**OCTOBER 7, 2013**

The meeting was held in Stow Town Building and began at 7:30 p.m. Board members present were Edmund Tarnuzzer, Michele Shoemaker, Charles Barney (associate), William Byron (associate) and Andrew DeMore (associate).

**Habitech, Inc.** – The hearing was held in Stow Town Building and opened at 7:30 p.m. on the petition filed by **Habitech, Inc., 148 Park Street, North Reading** under Section 4.4 of the Zoning Bylaw, "Table of Dimensional Requirements", for Variance of approx. 24,916 sq. ft. to allow a four-bedroom dwelling on an existing lot with 40,424 sq. ft. and 200-ft. frontage on **Lane's End**. The property is shown on Stow Property Map R-29 as Parcel 100C.

Board members present: Edmund Tarnuzzer, Michele Shoemaker, Charles Barney (associate), William Byron (associate) and Andrew DeMore (associate).

Mr. Tarnuzzer chaired and read the notice of hearing as it had appeared in the *Beacon Villager* on September 19 and 26, 2013. The hearing notice had been forwarded to all abutters by certified mail, return receipt. Abutters present were Yi Chen of 12 Lane's End; Gregory Bebernitz of 24 Lane's End; Stephen and Sally Griffin of 29 Lane's End; Peter Mullen of 13 Lane's End. Mr. Tarnuzzer recited the criteria to be met for grant of variance.

Brian Ahern represented the petitioner. Lane's End was developed by Habitech about twelve years ago. Parcel C remained as is in anticipation of a land swap with Steven Steinberg, owner of abutting property on Great Road within the business district. However, land acquisition could not be accomplished because septic system requirements resulted in expansion onto the abutting parcel of Mr. Steinberg. Parcel C contains less than an acre, by definition 43,560 sq. ft. Mr. Ahern now proposes to construct a four-bedroom single-family dwelling on Parcel C with grant of variance. In the alternative, Mr. Ahern is considering a two-unit dwelling under the Chapter 40B affordable housing program. Habitech is experienced in the 40B process, having developed Villages at Stow off Great Road. Mr. Ahern had met with the Planning Board earlier this year to discuss Parcel C. Abutters at that meeting expressed preference for a single-family dwelling, in keeping with the subdivision, and not a Chapter 40B duplex. Mr. Ahern suggested that grant of variance could be sustained by donation to the Town the amount of money typically spent on each affordable housing unit, \$40,000, in lieu of building the second structure. The Board reminded that it can only act on what was applied for, in this case a single-family dwelling.

The Board noted Parcel 100A of the Assessors' map that abuts the rear of several lots on Lane's End and asked why it was not incorporated into the lots. Mr. Ahern replied that the residential/business zoning district line is the boundary of those lots. When the subdivision was laid out it was with the expectation that more land would become available to add to Parcel C through a land swap.

The matter of "hardship" was explored. The comment was made that the subdivision could have been laid out differently from the beginning. The gamble was that additional land would become available to bring Parcel C into conformity with the Zoning Bylaw. The fall-back position is to seek a duplex on the lot through the Chapter 40B process. The Board reminded that Habitech would still have to apply for a comprehensive permit through the ZBA.

Gregory Bebernitz of 24 Lane's End abuts the subject parcel. He would like the neighborhood to be completed as intended with a single-family house. A duplex under 40B would not be in keeping with the neighborhood. The Board advised that the 40B process requires compliance with the Zoning Bylaw, however, requests for waivers may be made.

Direct abutters Steve and Sally Griffins at 29 Lane's End said this parcel has been a question mark the entire time they have been there. They would like its status to be decided in some manner.

Ms. Shoemaker reminded that the situation was created by the developer and there is therefore no hardship. Parcel C was designed as an undersized lot. It was noted the lot is assessed at \$14,000 as being unbuildable. The question arose if a Chapter 40B comprehensive permit could be approved for a substandard lot.

The hearing was closed at 8:10 p.m.

Following the close of the hearing, the members briefly discussed the Habitech petition. The question of hardship was noted. Would it be permissible for a variance to be granted for a three-bedroom dwelling, to avoid a Chapter 40B application in this instance? Could a 40B be approved for a single structure on an undersized lot? It was decided to contact Town Counsel Jonathan Witten for advice and an opinion.

The Board scheduled a meeting for October 16th at 7:00 p.m. for discussion toward a vote and a decision.

The meeting was adjourned at 8:25 p.m.

Respectfully submitted,  
Catherine A. Desmond  
Secretary to the Board