

MINUTES
ZONING BOARD OF APPEALS
JULY 1, 2013

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

Mark Dunning – The public hearing was held in Stow Town Building and opened at 7:30 p.m. on the petition filed by **Mark Dunning, 241 Red Acre Road, Stow** under Section 8.1.2.3 of the Zoning Bylaw, "Accessory Apartments", for variance from the requirement for 700 sq. ft. of gross floor area to allow an existing accessory apartment with 1,050 sq. ft. at said address. The property contains 96,030 sq. ft. and is shown on Stow Property Map R-31 as Parcel 26C-3.

Board members present: Edmund Tarnuzzer, Charles Barney (associate), William Byron (associate), Andrew DeMore (associate), Bruce Fletcher (associate).

Mr. Tarnuzzer chaired and read the notice of hearing as it had appeared in the *Beacon Villager* on June 13 and 20, 2013. The hearing notice had been forwarded to all abutters by certified mail, return receipt. Michael and Therese of 78 Farm Road were present. Mr. Tarnuzzer recited the criteria to be met for grant of variance.

Mark Dunning was present and said he had purchased the subject property in 1998. The existing structure included an "in-law suite". A home inspector at the time deemed it a legal structure. Since the purchase he has refinanced twice with no problem noted on the part of home inspectors. Mr. Dunning is attempting to again refinance and was informed by a home inspector that the in-law suite, or accessory apartment, is not legal. Therefore, he is seeking a variance from the bylaw requirements.

The plans/drawings submitted with the petition were copied from Building Department records and show the 1988 addition of the three-car garage with a structure behind indicated as a family room with a fourth bedroom. The kitchen was added later. The site plan shows there is a 1500-gallon septic tank. In 2004 a family room was added by the applicant to the right rear of the dwelling.

Mr. Fletcher asked if there is a separate entrance to the accessory apartment. Mr. Dunning replied there is access off the main entrance to the split level dwelling, as well as through the garage. Additionally, there is a sliding glass door at the rear. It was noted the conversion to an apartment was created without a building permit more than eight years ago. It was also noted the apartment predates the current bylaw adopted in 1991. Asked if the space could be modified to meet the 700-sq. ft. minimum, Mr. Dunning said that had been considered but rejected.

Discussion ensued as to the conditions imposed by the present bylaw related to accessory apartments. Except for the gross floor area of 700 sq. ft., existing conditions appear to meet the

requirements of Section 8.1.2.3. If the variance were granted, the next step should be to contact the Building Inspector to learn if a building permit or special permit is needed.

Hardship was cited. The apartment existed at the time of purchase and had existed for some time. Changes to reduce the existing gross floor area would be difficult. Refinancing cannot be undertaken without action to declare the apartment "legal".

The hearing was closed at 8:13 p.m.

Following the close of the hearing, the members briefly discussed the petition. Mr. Fletcher moved to grant a variance from the 700 sq. ft. gross floor area requirement under Section 8.1.2.3 to allow the existing accessory apartment with 1,050 sq. ft. of gross floor area, subject to conditions. Second by Mr. Barney. Additional discussion ensued. Questioned on how he arrived at the 1,050 figure, Mr. Dunning said it was the total of the room measurements. When put to a vote, the motion passed unanimously.

The meeting was adjourned at 8:30 p.m.

Respectfully submitted,
Catherine A. Desmond
Secretary to the Board