

**MINUTES
ZONING BOARD OF APPEALS
JUNE 2, 2014**

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 Ruth Sudduth (associate).

Syncarpha Stow, LLC: At 7:32 p.m. a public hearing was held on the petition filed by **Syncarpha Stow, LLC, 4875 Pearl East Circle, Boulder, CO** under Section 4.4 of the Zoning Bylaw, "Table of Dimensional Requirements", for variance of approximately three (3) feet from the required 50-ft. setback to allow a solar panel inverter pad at **93 Delaney Street**. The property contains 862,052 sq. ft. and is shown on Stow Property Map R-4 as Parcel 28-1.

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

Mr. Tarnuzzer chaired and read the notice of hearing as it had appeared in the *Beacon Villager* on April 15 and 22, 2014. The hearing notice had been forwarded to all abutters by certified mail, return receipt. No abutters were present. Mr. Tarnuzzer recited the criteria to be met for grant of variance.

Eric Aubrey represented the petitioner. The property is the site of a solar panel array installation. The solar panel inverter atop the pad in question is one of two heavy steel collectors via high voltage underground cables of the power generated by the many panels and transforms the power from DC to AC. A portion of this pad was placed inside the 50-ft. setback through error due to the condition of the rocky soil. Moving the pad would be difficult and costly in that it is very heavy and would require shut down of the installation as underground cables would also have to be moved. The current situation is limiting the petitioner's ability to place a required title insurance policy.

Mark Jones of the Planning Board indicated there was no objection to the variance as there had been an error.

The Board did not feel a site visit was necessary. The hearing was closed at 7:50 p.m.

Warren & Sara Jaworowicz: At 7:50 p.m. a public hearing was held on the petition filed for variance from the Zoning Bylaw, "Planned Conservation Development": Section 8.5.7.1 for side yard variance of eighteen (18) feet (Generator) and Section 8.5.7.2 for rear yard variance of forty-eight (48) feet (Shed) at **92 Dunster Drive**. The property contains 36,546 sq. ft. and is shown on Stow Property Map R-5 as Parcel 80-26.

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

Mr. Tarnuzzer chaired and read the notice of hearing as it had appeared in the *Beacon Villager* on April 15 and 22, 2014. The hearing notice had been forwarded to all abutters by certified mail, return receipt. No abutters were present. Mr. Tarnuzzer recited the criteria to be met for grant of variance.

The Planning Board was represented by Mark Jones. The Conservation Commission was represented by member Cortni Frecha and Coordinator Kathy Sferra.

Sara Jaworowicz represented the petitioners. Referring to the plot plan included with the petition, she pointed out various existing conditions. The lot is rather boot-shaped with the septic field located in the foot. There are two access manholes to the septic tank. An underground propane gas tank is located at the left rear corner as one views the plan. It is proposed to place the generator, described as a small box (4'x2.5'), about ten feet from the gas tank location from which it will obtain fuel for operation. The 10'x14' shed would be placed about the same distance from the generator and used for storage of landscape equipment. Mrs. Jaworowicz stated there are very few options for placement of the shed. Trees would have to be removed along the lot line with an abutter. The generator must be at least five feet from the house, but that site would impede passage through the rear yard.

The Board had received memos from the Conservation Commission and the Planning Board objecting to the requested variances as being excessive and suggesting the generator and shed be placed at least 15 feet from the property lines. It did not appear a hardship exists. If variances were granted, it was suggested the applicant be required to install a solid fence at the rear of the shed to screen it and the generator from the adjacent open space.

The Board questioned the need for variance for the shed as it would not be permanently attached to the ground. Discussion ensued with suggestions for alternate locations, none of which appeared acceptable to the applicant. Withdrawal of the petition was not an option as the hearing had commenced. One member suggested denial without prejudice might be possible to enable the applicants to re-petition without the mandatory two-year wait after denial.

The hearing was closed at 8:25 p.m.

After close of the hearings, the members deliberated with the following results:

Syncarpha Stow, LLC: On motion of Ms. Sudduth, second by Mr. Barney, it was voted unanimously to grant the requested three-foot variance.

Warren & Sara Jaworowicz: Ms. Sudduth moved and Mr. Barney seconded to deny without prejudice the requested variances as being excessive to the PCD zoning bylaw. The vote was unanimous in favor.

Stow Villages LLC: The Board was in receipt of a letter (hand delivered) from Lexon Surety Group in response to the Board's letter of May 8th as notice that work secured by the performance bond is incomplete and unsatisfactorily constructed. The response from the insurer requested a long list of documents "to properly investigate this claim". The Board felt it was not its responsibility to comply. It was decided to refer the matter to the Town Administrator for advice from Town Counsel.

Adjournment: The meeting was adjourned at 8:40 p.m

Respectfully submitted,
Catherine A. Desmond
Secretary to the Board