

MINUTES
ZONING BOARD OF APPEALS
APRIL 13, 2015

The meeting was held in Stow Town Building and opened at 7:00 p.m. Board members present were Edmund Tarnuzzer, Charles Barney, William Byron, Lee Heron (associate) and Ruth Sudduth (associate who arrived at 7:30 p.m.)

Minute Man Air Field: The Board met with Donald McPherson, President of Minute Man Air Field, relative of the repaving of an existing runway. The Planning Board had issued an Erosion Control Special Permit for repair, pavement and development of a runway safety area. The Conservation Commission had issued its Order of Conditions under the Wetlands Protection Act. A condition of the Planning Board decision was that the applicant obtain from the Board of Appeals a letter that the runway repair project is not modifying or expanding the use of the airport and therefore does not require a special permit from the ZBA under Section 3.9 of the Bylaw. Mr. McPherson confirmed the project is strictly maintenance with repaving and no change in the length or width. Two-thirds of the runway had been repaved last year. A letter was received from the Building Commissioner who had reviewed the design documents and Planning Board decision. He determined the proposed repair work will not change the pre-existing, non-conforming use or structure status of the runway and that filing for special permit with the ZBA is not required. Mr. Heron moved that a special permit application filed with this board is not necessary; second by Mr. Barney. The vote was unanimous in favor by members Tarnuzzer, Barney, Byron and Heron. Mr. Tarnuzzer was to draft a letter advising the Board's vote.

Olender, 57 Whispering Way: Members Tarnuzzer, Barney, Byron and Heron discussed the hearing held April 6th for variance under Section 8.5.7.2, "Planned Conservation Development"; side yard variance of 22 feet and rear yard variance of 7 feet for a 20'x40' swimming pool; rear yard variance of 3.5 feet for a 22'x17' pavilion. The PCD bylaw requires that no building shall be within 50 feet of the boundary with the Open Land. The Zoning Bylaw definition of a building is: "a structure having a roof or cover for the shelter, support or enclosure of persons, animals or property". Swimming pools are included in the definition of a structure. Therefore, the proposed swimming pool is a structure that may be installed within the 50-foot setback from the Open Land of the PCD. The pavilion is a "building" as defined by the bylaw and does require a variance from the 50-foot setback. On motion of Mr. Heron, second by Mr. Barney, it was voted unanimously by members Tarnuzzer, Barney, Byron and Heron to grant a variance of 3.5 feet to allow the proposed pavilion. A variance for the swimming pool is not required.

McCord, 44 Hudson Road: All members were present for this discussion of the hearing held on April 6th for special permit to allow a dog kennel at the address. Mr. Byron had visited the property and reported that the kennel is inside the building with space in the basement. There is a fenced area to the rear. He had talked with a neighbor who said the dogs barked when he was in his yard. He had not attended the hearing. The plans submitted with the application were reviewed as to the location of the access drive, building entrance, etc. On motion of Mr. Barney,

second by Ms. Sudduth, it was voted unanimously to grant the special permit to allow a dog kennel at 44 Hudson Road.

Piecewicz re 43-45 Crescent Street: The members discussed the hearing held on April 6th on the Appeal from Unfavorable Acton of the Building Commissioner filed by the applicant concerning denial of his request for zoning enforcement related to said property. The applicant is of the opinion that the use of a space within the building for an office by Quinn Electric is different from previous commercial use and should require a special permit from the ZBA. The Board noted the application to build the office space did not indicate any use other than an office. The Building Commissioner had determined the current use is "not a substantially different use from the pre-existing, non-conforming use". The Board was in agreement with the Building Commissioner. On motion of Mr. Tarnuzzer, second by Mr. Barney, it was voted unanimously to uphold the opinion of the Building Commissioner and to deny the appeal from unfavorable action.

Adjournment: The meeting was adjourned at 7:45 p.m.

Respectfully submitted,
Catherine A. Desmond
Secretary to the Board