

**MINUTES
ZONING BOARD OF APPEALS
APRIL 6, 2015**

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

Douglas & Amanda Olender: At 7:30 p.m. a public hearing was held on the petition for variance under Section 8.5.7.2 of the Zoning Bylaw, "Planned Conservation District": 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 at **57 Whispering Way**. The property contains 23,958 sq. ft. and is shown on Stow Property Map R-25 as Parcel 2A-61.

Board members present: Edmund Tarnuzzer, Charles Barney, William Byron, Lee Heron (associate), Ruth Sudduth (associate).

Mr. Tarnuzzer chaired and read the notice of hearing as it had appeared in the *Beacon Villager* on March 19 and March 26, 2015. 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 applicants were present and stated they wished to install a swimming pool and pavilion in the rear yard of their property. The PCD requirement is that any proposed structure be located 50 feet from the lot lines adjacent to the open space. The swimming pool would be only 28 feet from the side lot line and 43 feet from the rear lot line. The pavilion would provide shade. The rear yard is currently fenced. It was stated that neighbors are in support of the proposal.

The purpose of the PCD was explained to the applicants. The intent of the bylaw is to provide open space in exchange for lots smaller than the acre and one-half requirement of a conventional subdivision. The question of hardship was raised.

The Board members did not feel a site visit was necessary.

The hearing was closed at 7:45 p.m.

Jean McCord: At 7:50 p.m. a public hearing was held on the application for Special Permit under Section 3.2.2.5 of the Zoning Bylaw, "Residential District Uses", to allow a dog kennel at **44 Hudson Road**. The property contains 44,614 sq. ft. and is shown on Stow Property Map R-10 as Parcel 44-2.

Board members present: Edmund Tarnuzzer, Charles Barney, William Byron, Lee Heron (associate), Ruth Sudduth (associate).

Mr. Tarnuzzer chaired and read the notice of hearing as it had appeared in the *Beacon Villager* on March 19 and March 26, 2015. 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 special permit.

Ms. McCord stated she is seeking a special permit to allow boarding of dogs in her home at 44 Hudson Road. She has been involved in the endeavor for sixteen years and had previously conducted it at this location, and then at South Acton Road for which she had been granted a special permit from the Board. She has since moved back to Hudson Road and wishes to continue the dog boarding there. A kennel license has been issued by the Town. Ms. McCord pointed out that the zoning bylaw does not provide the

definition of a dog kennel. The dogs would be housed in the basement of the home where there is a large fenced yard. From the exterior there would not be evidence of a kennel. The number of dogs present on a daily basis would vary; the average would be ten, some for the day and others for the night. It was noted that the property abuts D&D Farms, a commercial operation about 100 feet from the lot line. Access would be from Hudson Road to the side of the house, through the garage at the lower level and then to the basement.

Town Clerk Linda Hathaway was present and provided the Board with a copy of the general bylaw relative to kennel licenses that are issued from her office. Upon approval from the ZBA, a commercial kennel license may be obtained.

Ms. McCord noted this is a home business and her occupation. There had been no complaints from abutters when at Hudson Road. The topography of the lot tends to muffle any noise there could be.

James Salvie and Kathy Sferra submitted a letter of support as clients for more than twelve years at both the Hudson Road and South Acton Road locations. It was felt the location was well suited to the proposed use as it is below grade and not visible from the road, as well as being adjacent to the commercial greenhouse operation. Each dog has its own crate and are separated by temperament for play time.

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

Edmond Pieciewicz: At 8:15 p.m. a public hearing was on the Appeal from Unfavorable Action of the Building Commissioner concerning denial of a request for zoning enforcement related to the property at **43-45 Crescent Street**. The property contains 1,800 sq. ft. and is shown on Stow Property Map U-10 as Parcel 29.

Board members present: Edmund Tarnuzzer, Charles Barney, William Byron, Lee Heron (associate), Ruth Sudduth (associate).

Mr. Tarnuzzer chaired and read the notice of hearing as it had appeared in the *Beacon Villager* on March 19 and March 26, 2015. The hearing notice had been forwarded to all abutters by certified mail, return receipt. Those abutters present: Joseph Bolinsky, 51 Crescent Street; Charles Lewis, 53 Crescent Street; William Lewis, 63 Crescent Street. Building Commissioner Craig Martin and Stephen Quinn were present. Mr. Tarnuzzer reviewed the procedure to be followed as it relates to an appeal from unfavorable action.

Mr. Pieciewicz filed the appeal as he believes there is a violation of the zoning bylaw in allowing an electrical contractor, Quinn Electric, to conduct business from an office at the address. He believes the business is not allowed and inappropriate and a nuisance to him as an abutter. The property has been used an auto repair garage. He noted there has been no application for a change of use as it relates to the electrical office. According to the "Table of Principal Uses" of the zoning bylaw the use is a contractor yard. The location is within a residential district, and any change of use would require a special permit.

Building Commissioner Craig Martin said he considered both uses as "business uses". The electrical business occupies a small office. There is a sign on the façade of the building of the same size as that of the auto repair, and for which a sign permit was issued. Mr. Martin did not consider the use as substantially different from the existing auto repair.

It did not appear to one member that the impact on the neighborhood is any more than the auto repair. Ms. Sudduth wished to pin down what is exactly in dispute. Mr. Pieciewicz noted the number of trucks,

employee parking, exterior lighting, etc. It did not appear the lights are shining beyond the property lines. Charles Lewis noted there are two street lights opposite the property. There are also motion detector lights. Mr. Quinn advised he had not added additional lighting. The sign is within the guidelines and complies with the zoning bylaw. A building permit had been obtained to create the office space within the building, considered a pre-existing, non-conforming use. Mr. Piecewicz insisted there has been a change of use from auto repair to an electrical contractor yard.

Mr. Quinn explained he has four employees who arrive at the site at 7:30 a.m. in their vehicles. They receive work orders and leave the property in the company vans to return about 4:30 p.m. There are no deliveries to the site. The small trailer in the parking lot was snowbound. Charles Lewis, son of the original owner, recited the number of former and different uses operated from the building over the years: gas station, junk yard, auto dealer, as well as auto repair. He noted the current auto repair business will be discontinued in May and that space will be available for rent. There has been an inquiry from a landscaper. Mr. Martin advised he would make a determination as to what type of business could be located there.

The hearing was closed at 9:20 p.m.

Olender: Mr. Olender appeared and wished to comment further concerning the petition for variance heard earlier. He cited the 20-ft. setbacks of the Planned Conservation Development and questioned why it should not apply to the request for variance. It was explained that the PCD requires a 50-ft. setback from lot lines abutting the open space of the development, as in this case. The intent of the bylaw is to retain a distance to the open space. A swimming pool may not be considered a structure, but it has impact.

Next Meeting: The Board will meet on Monday, April 13th at 7:00 p.m. to consider and come to decisions concerning the matters heard earlier in the evening.

Adjournment: The meeting was adjourned at 9:20 p.m.

Respectfully submitted,
Catherine A. Desmond
Secretary to the Board