

**MINUTES
ZONING BOARD OF APPEALS
AUGUST 12, 2005**

The meeting was held in Stow Town Building and began at 11:10 a.m. Board members present were Donald Hyde, Edmund Tarnuzzer, Michele Shoemaker (associate), Lee Heron (associate) and William Byron (associate).

Union Church of Stow – Joining the meeting were Robert Mong and Duncan Brown, representing the Church, and abutter Malcolm FitzPatrick.

Mr. Hyde opened the discussion by stating he hoped there had been discussion and compromise between the parties since the last meeting. Mr. Mong replied he had met with Mr. FitzPatrick and then contacted Mr. Brown who worked on some possible revisions. Mr. Brown pointed out on the plan certain areas that might provide alternate parking. However, they are holding to 24 feet from the westerly entrance to allow the turning of vehicles into the rows. To excavate back at that point would leave a slope of 7 or 8 feet which would require a retaining wall and cause additional expense. Mr. Brown described those areas as "pinch points". It was his opinion that nothing would be gained from the suggestions of Mr. FitzPatrick and would, in addition, incur more expense for the Church.

Mr. FitzPatrick felt there were engineering solutions to the problem. He did not feel there was consideration to the needs of abutters. He was not satisfied.

Mr. Tarnuzzer reviewed several of the items for which relief was requested. *7.7.1 Setbacks*: He did not feel this was really applicable. The applicant will comply with ten feet on the side and rear. Relief from the 30-foot front line setback is sought. *3.9.1.4 Setbacks*: That section requires a 35-foot setback from the side or rear lot line. There is a discrepancy between these two sections. Mr. Tarnuzzer felt that 7.7.1 was applicable in this case. Ms. Shoemaker remarked a conflict between those two sections is not relevant. Relief could be granted from both. Mr. Tarnuzzer noted there would be no parking closer than 35 feet from the rear lot line. Considering the measurements on the plan, only a one-foot variance would be required. Mr. Mong pointed out that in one place the buffer is increasing from zero to ten feet.

Mr. Byron had visited the site prior to this meeting. He did not feel the abutter would be impacted by the plan. He did not feel that those areas of the parking lot with which Mr. FitzPatrick takes issue would be utilized as much as those spaces closer to the church building. The area westerly will be mostly for travel of vehicles to reach the rows. Mr. Byron pointed out this in not a mall or an industrial site.

Mr. Brown pointed out the area toward Great Road that will be leveled to provide parking spaces. The entire parking area will actually be moved ten feet closer to the road.

Mr. Tarnuzzer referred to Chapter 40A, Section 3, the second paragraph of which addressed religious and educational uses. "No zoning ordinance or bylaw shall regulate or

restrict the interior area of a single family residential building nor shall any such ordinance or bylaw prohibit, regulate or restrict the use of land or structures for religious purposes or for educational purposed on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements."

Mr. Hyde closed discussion and asked for a motion with regard to a decision. Mr. Tarnuzzer moved to grant the special permit and the variances as requested, subject to conditions, such as reasonable conformance with the submitted plan, reasonable access to the abutter during construction, drainage considerations, conformance with the bylaw in effect regarding exterior lighting, etc. Ms. Shoemaker seconded. Mr. Hyde declared the vote as unanimous to grant the special permit and variances.

Adjournment – The meeting was adjourned at 11:55 a.m.

Respectfully submitted,
Catherine A. Desmond
Secretary to the Board