

**MINUTES
ZONING BOARD OF APPEALS
NOVEMBER 6, 2006**

The meeting was held in Stow Town Building and began at 7:30 p.m. Board members present were Arthur Lowden, John Clayton, Edmund Tarnuzzer, Donald Dwinells, Charles Barney (associate) and Lee Heron (associate).

Linear Retail Stow #1, LLC - The public hearing was held in Stow Town Building and was opened at 7:35 p.m. on the petition filed by **Linear Retail Stow #1, LLC, c/o Linear Retail Property, Five Burlington Woods Drive, Burlington, Mass.** for variances under Section 4.3.1 and 4.3.2 of the Zoning Bylaw, "Area, Frontage, Yard, and Floor Area Requirements", to allow construction of a wastewater collection, treatment and leaching areas system, above and below ground, with zero setbacks from lot lines at **Stow Shopping Center, 155 Great Road**. The property contains 574,774 ± sq. ft. and is shown on Stow Property Map R-30 as Parcels 12 and 13.

Board members present: Arthur Lowden, John Clayton, Edmund Tarnuzzer, Donald Dwinells, Charles Barney (associate).

Mr. Lowden chaired and read the notice of hearing as it had appeared in the *Beacon Villager* on October 19 and 26, 2006. Hearing notices had been forwarded to all abutters by certified mail, return receipt. Abutters present were Mark Whitehead, 40 Samuel Prescott Drive; David Walrath, 30 Samuel Prescott Drive; Michele Shoemaker, 5 Red Acre Road; Melvin Chase, 23 Red Acre Road; James Gray, 26 Faxon Drive; John Beusch, Stow Conservation Trust (Red Acre Woodland). Mr. Lowden recited the criteria to be met for grant of variance.

Representing the petitioner were Attorney Mark Burrell, Mark Conley of Linear Retail and Bryan Lynch of Vanasse Hangen Brustlin, Inc.

Attorney Burrell began his remarks by saying the petitioner is seeking two variances. The first concerns the setback of the proposed 12'x32' control structure to replace that existing at the edge of the parking lot at Samuel Prescott Drive. The existing 18'x20' structure was said to be actually "a couple of feet" over the lot line. The new structure is an integral part of the wastewater system, will be located entirely on the shopping center property and will be about the same height and appearance. The proposed treatment system will be new to the site. One of the two proposed leaching fields under the parking lot will replace one to be dug up and refurbished. The system will be installed around the property to collect wastewater for deposit at the pumping station. Mr. Burrell stated that if a variance were not granted for the control building, it would be necessary to place the structure within the parking lot, and that would create visibility, parking and snow removal problems. The existing building has been at the same location for ten or more years with no apparent problem.

The second variance concerns the control panel generator enclosure at the pumping station to be located at the easterly corner of the main entrance. The 8-foot round pump station below ground will be served by an enclosed control panel generator 4 feet high by 6 feet long. It may be a few feet from the lot line. The bank will tie into the new system. There are no nearby residential properties. The plan meets with Board of Health approval. Plans have been submitted to Mass. DEP for approval. It was not anticipated work would begin until spring, and all will be within the limits of the property.

Mr. Lowden read letters from the Planning Board and Lower Village Sub-Committee in support of the proposal. Ernest Dodd, representing both groups, verbally gave support. James Gray of Faxon

Drive asked if there would be impact on the well of Meeting House. The response was in the negative. Mark Whitehead of Samuel Prescott Drive was in support.

The Board members planned a site visit for Thursday, November 9th.

The hearing was closed at 8:09 p.m.

Richard & Marilou Bonetti - The public hearings continued from October 2, 2006 were reconvened in Stow Town Building at 8:15 p.m. on the application filed by **Richard and Marilou Bonetti, 425 Taylor Road, Stow** for Special Permit under Section 3.9.6 of the Zoning Bylaw, "Changes of Use and Limitation on Intensity and Size of Use", to allow extension by 25% of a pre-existing, non-conforming use (contractor's yard) on portions of the property at said address, and on the Appeal from Unfavorable Action and the letter of the Building Commissioner dated March 2, 2006 concerning operation of **R & M Earthwork & Landscape Co.** at said address. The property contains 111,510 sq. ft. and is shown on Stow Property Map R-6 at Parcel 115.

Board members present: Arthur Lowden, John Clayton, Edmund Tarnuzzer, Charles Barney (associate), Lee Heron (associate).

Mr. Lowden chaired and read the notices of hearing as they had originally appeared in the *Beacon Villager*. Notice of the continued hearings had been forwarded to all abutters. Abutters in attendance: John Beusch, 416 Taylor Road; Peter and Marilyn Crafts, 422 Taylor Road; David Cannistraro, 431 Taylor Road; Zerzy Zieba, 413 Taylor Road; Michael and Anabella Taylor, 433 Taylor Road; William Cronin, 447 Taylor Road; Richard Thall, 428 Taylor Road. Also present were Willard Parks, 475 Taylor Road; Edward Cataldo, 507 Taylor Road; Lynne Tabor and Dorett Hope, 402 Taylor Road. Mr. Lowden recited the criteria to be met for grant of special permit under Chapter 40A and Section 9.2.6 of the Zoning Bylaw and the findings for the appeal from unfavorable action.

The applicants were in attendance and were represented by Attorney Edward Woll. The Board was presented a revised plan or sketch of the subject property. The green line on the plan outlined the original parcel and the several portions added at various times to total the square footage: original lot 1 of 41,000 sq. ft.; lot 2 of 6,539 sq. ft.; lot 3 of one acre; lot 4 of 1/2 acre. The red line denotes the zoning setbacks. Mr. Woll said that a 1992 decision of the Building Inspector was that the use was non-conforming to the residential district. The applicant is seeking a special permit to have delineated an area of the "contractor yard" as a 4,200-sq. ft. maneuvering area. The plan showed five parking spaces 45 feet from the lot line and adjacent to the maneuvering area. Mr. Woll said it was unclear under a former bylaw if a special permit was required for a 25% expansion. He felt this plan would help clarify any overlap.

Mr. Clayton was unclear as to what square footage the requested 25% expansion referred: the entire lot or a certain portion. The hearing notice defines the property as containing 111,510 sq. ft. Mr. Woll responded the request concerns a portion of the total lot, as identified on the plan, to the rear of the total property with 25,795 sq. ft.

Richard Thall of 428 Taylor Road asked the length of time any special permit granted would be effective, if the property were to be sold. Could a non-resident take over the business? He was concerned about the long-term character of the neighborhood. Mr. Clayton responded that a special permit is tied to the property. A response to the second question will require some research. Mr. Woll noted that any change of use would require application to the ZBA.

The Board planned to conduct a site visit on Thursday, November 9th. The hearing was closed at 8:48 p.m.

Villages at Stow - A letter was received from Susan Sullivan, P.E. recommending that the contingency of the bond amount be increased by \$14,594 to account for potential binder repairs. The binder pavement was installed last year under adverse weather conditions. Portions were unsatisfactory and were replaced in September. A review of the bond estimates reveals there are no line items specific to repair and replacement of the binder course. The recommended total bond amount is \$250,000. On motion of Mr. Barney, second by Mr. Lowden, it was voted unanimously to accept the recommendation to set the bond amount at \$250,000.

Adjournment - The meeting was adjourned at 9:06 p.m.

Respectfully submitted,
Catherine A. Desmond
Secretary to the Board