

MINUTES
ZONING BOARD OF APPEALS
MARCH 5, 2007

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

Omnipoint Communications - T-Mobile USA - The public hearing continued from February 5, 2007 was reconvened at 7:30 p.m. in Stow Town Building on the petition filed by **Omnipoint Communications, Inc., a wholly owned subsidiary of T-Mobile USA, Inc., 15 Commerce Way, Norton, Mass.** for variances to allow installation of three wireless telecommunications antennas within the existing belfry of **First Parish Church of Stow & Acton, 339 Great Road** under Sections 3.11.4.1 (not located in the Wireless Service Facility District); 3.11.7.2.a (setback from residential buildings less than 1,000 feet; 3.11.7.2.b (setback from municipal buildings less than 1,000 feet; and 3.11.7.1.d (height in excess of 35 feet). The property is shown on Stow Property Map U-10 as Parcel 34-1.

Board members present: John Clayton, Edmund Tarnuzzer, Charles Barney (associate), Michele Shoemaker (associate), Lee Heron (associate). Mr. Clayton continued as chair.

Attorney Brian Grossman of Prince, Lobel, Glovsky & Tye, LLP was present on behalf of the petitioner. He reviewed the situation to this point. There was a request from the Planning Board to seek an opinion from Town Counsel if this petition before the Board could be rendered moot if the Planning Board could issue a special permit through modification of the existing special permit for that location. There was a pre-application meeting with the Planning Board. An application for special permit has been filed and a public hearing is scheduled for next week (March 13th). It was not expected the Planning Board process would be lengthy. Mr. Grossman said he would like to request a continuance of this hearing but understands the Board feels it has gone on long enough.

Mr. Tarnuzzer would suggest this hearing be closed this evening. If need be, the Board would request further extension of time for filing its decision with the Town Clerk. Hopefully the decision would be a moot point if the Planning Board can grant the special permit under the Zoning Bylaw. Mr. Grossman estimated the Planning Board's hearing would extend to two sessions. He was willing to grant an extension for decision filing, perhaps to the end of April.

On motion of Mr. Tarnuzzer, second by Ms. Shoemaker, it was voted unanimously to close the hearing and to authorize Mr. Tarnuzzer to draft a decision at the appropriate time based on the Planning Board's action. Mr. Grossman indicated he would provide an extension for decision filing to April 30th.

The hearing was closed at 7:39 p.m.

John Aucoin - The public hearing was held in Stow Town Building and was opened at 7:45 p.m. on the petition filed by **John Aucoin, 120 Taylor Road, Stow** for rear yard setback variance of thirty-five (35) feet under Section 4.4 of the Zoning Bylaw, "Table of Dimensional Requirements", to allow construction of a 30-ft. x 30-ft. garage five (5) feet from the lot line at said address. The property contains 67,649 sq. ft. and is shown on Stow Property Map R-8 as Parcel 15.

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

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Mr. Clayton chaired and read the notice of hearing as it had appeared in the *Beacon Villager* on February 15 and 22, 2007. The hearing notice had been forwarded to all abutters by certified mail, return receipt. No abutters were present.

Mr. Aucoin was represented by Michael Sullivan of Connorstone Consulting Civil Engineers and Land Surveyors. He explained that the lot is an irregular shape. The proposed garage location abuts a wetland on the adjoining property, designated by a dashed line on the plan. There is an existing 10'x35' shed that will be removed to make way for the garage. Mr. Sullivan advised there is no other feasible place for the garage because of the irregular lot shape and topography. The dwelling on the abutting property is about eighty feet away.

Mr. Sullivan noted that Mr. Aucoin had petitioned for and been granted a variance for the garage at the same location in 1997, but it was not constructed for whatever reason. A copy of the Board's decision in that regard was submitted.

Noting there is a second floor indicated on the plan, Mr. Clayton inquired into its proposed use. Mr. Sullivan explained that the applicant is a carpenter by trade and has need for a workshop. There are no plans to establish an accessory apartment in the structure. The 1997 decision prohibited the installation of plumbing fixtures. Mr. Sullivan did not believe there would be objection to that condition. Because of the proximity to wetlands, a Notice of Intent will be filed with the Conservation Commission.

The hearing was closed at 7:59 p.m.

Following the hearing, the Board discussed the petition. Noting there had been a favorable decision for the garage at the same location in 1997, it was not felt necessary to conduct a site visit. On motion of Ms. Shoemaker, second by Mr. Barney, it was voted unanimously to grant a rear yard setback variance of thirty-five (35) feet.

Adjournment - The meeting was adjourned at 8:05 p.m.

Respectfully submitted,
Catherine A. Desmond
Secretary to the Board