

MINUTES
ZONING BOARD OF APPEALS
MAY 17, 2007

The members met at Stow Town Building at 9:00 a.m. for the purpose of conducting site visits to 32 Dunster Drive and 14 Cardinal Court that were the subject of public hearings held Monday, May 14th. Members present were Arthur Lowden, John Clayton, Edmund Tarnuzzer and Charles Barney (associate). The members were joined by Ernest Dodd of the Planning Board.

32 Dunster Drive - Scott Wilson - The petitioner was on site and assisted in locating lot corner bounds and those of the proposed barn/garage extension. Temporary storage of what was presumed to be motor vehicles was observed, although no vehicles were visible. The location of the dwelling and the swimming pool as shown on the plan appeared to be accurate.

14 Cardinal Court - Mark Donovan - The outline of the proposed 17x27x36-foot irregular-shaped swimming pool was indicated with flags. The distance of the pool to the rear lot line that abuts the open land of the development was observed. Mr. Dodd assisted the members as regards the setback requirements of Planned Conservation Development zoning. At this point, the entire Wildlife Woods subdivision is incomplete. Mr. Dodd advised that upon completion the developer will offer the open land to the Town. If not accepted, the offer would be to the owners' association that should then be in place.

The members and Mr. Dodd returned to the Town Building at 10:10 a.m.

Mark Donovan, 14 Cardinal Court - The petitioner's request was for a 39-foot rear yard setback from the provisions of Section 8.5.7.2 to allow a swimming pool eleven feet from the lot line. That section of the Planned Conservation Development zoning bylaw states that "no building shall be located within 100 feet of an existing public way or within 50 feet of the boundary line of the PCD or the open land". Swimming pools are defined as "structures" and not as buildings, therefore, could be allowed within the minimum setback. It was determined that the reference should have been to Section 8.5.7.1 that states the minimum setback requirements as 20 feet for front, rear and side yards. If the pool were to be positioned closer to the dwelling (perhaps by nine feet) to avoid the 20-foot setback, no variance would be required. As proposed, a variance of nine feet would be necessary under the 20-foot requirement of 8.5.7.1.

Findings: The request derogates from the intent and purpose of the PCD zoning bylaw. No hardship was demonstrated. The pool could be placed at least twenty feet from the rear lot line in accordance with Section 8.5.7.1.

Mr. Clayton moved to deny the requested variance. Second by Mr. Barney. The vote of the four members present was unanimous to deny. Mr. Tarnuzzer was to draft the decision to deny.

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Scott Wilson, 32 Dunster Drive - The members felt that the size of the proposed barn extension at 40'x 59.5' was excessive and not in keeping with the neighborhood. Concern was expressed that it bordered on a commercial operation. It was also felt that no hardship was demonstrated, and that the proposal derogated from the intent and purpose of the zoning bylaw.

On motion of Mr. Clayton, second by Mr. Lowden, it was voted unanimously to deny the requested 24-foot rear yard setback variance. Mr. Tarnuzzer was to draft the decision.

Adjournment - The meeting was adjourned at 10:50 a.m.

Respectfully submitted,
Catherine A. Desmond
Secretary to the Board