

MINUTES
ZONING BOARD OF APPEALS
AUGUST 20, 2007

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 and William Byron (associate).

Assabet Water Company - The public hearing continued from August 6, 2007 was held in Stow Town Building and opened at 7:30 p.m. on the petition filed by **Assabet Water Company, Inc., Robert E. Maynard, President, 6 South Street, Grafton, Mass.** for variance under Section 3.9.6.1 of the Zoning Bylaw, "Non-Conforming Uses and Structures", and Section 4.4, "Table of Dimensional Requirements", to allow construction of a 250,000-gallon pedestal water storage reservoir **off Dunster Drive**, as replacement for two existing water storage tanks. The property contains 12,787 sq. ft. and is shown on Stow Property Map R-5 as Parcel 53A.

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

Mr. Lowden chaired and recited the criteria to be met for grant of variance. The following abutters were in attendance: William Avery, 50 Dunster Drive; Mark Hahn, 35 Dunster Drive; Scott Wilson, 32 Dunster Drive; George Gallagher, representing Habitech, developer of Derby Woods subdivision. Planning Board member Ernest Dodd was also present

Robert Maynard noted that the hearing had been continued to allow exploration of possible alternate sites for placement of the pedestal water storage tank or acquisition of additional land. He then relinquished the floor to abutter William Avery who had conducted a comprehensive look at sites within or adjacent to the Harvard Acres subdivision. Mr. Avery explained he had spent much time over the past two weeks to gather information based on certain public information. The sites had been reviewed with Mr. Maynard for his input on site requirements and had been selected because of their topology or availability. There had been no discussion with most of the property owners of the evaluated sites.

Mr. Avery presented his multi-page report, noting requirements for a water tank site and homeowner requirements. A minimum radius of 40 feet beyond the perimeter of the tank is requested by the contractor for safe construction, probably requiring clear cutting, stumping and grading. Visual screening is of importance to property owners to reduce visibility. Mr. Avery went on to describe the several selected sites. Peabody East: Would require a 150-ft. tank. Current Dunster: Derby Woods proposed dwellings will be impacted. It was his estimate that a 100-foot area would be required for construction plus space to store material during construction. Lowell East: There is a private parcel with dwelling of about 2.5 acres where a tank could be placed to the rear at a 320-ft. elevation. Access would be required. Peabody Common Land: There is a high point with 318-ft. elevation. The parcel is set back from houses with many trees and appears to be a good site. The top of a tank could be seen from a house across the road.

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There are many trails throughout, so access was not seen as a problem. Dunster West: Visible from Derby Woods and the Averys.

Mr. Avery's conclusion was there are two sites that have potential to make a tank invisible: Lowell East and Peabody Common Land. Neither appears to require variances. The elevations are 16 to 18 feet lower than the Dunster Drive site. Use of either site could be made available through easement to Assabet Water by the owner and not require purchase. Mr. Avery recommended focus on the Peabody Common Land as the first alternative.

Mr. Maynard said he would be pleased with a Dunster West site as it at the same elevation as the current tanks. However, he did not wish to spend money for an easement from Habitech. He quoted Bruce Wheeler as saying he did not want water from Assabet and will never want that water. The elevation of the Lowell East site was said to be 285 feet rather than 320 feet and would require a higher tank. Additionally, a road would have to be constructed for access and utilities. Peabody East would be in someone's back yard. The well site would add 65 feet to tank height. Mr. Maynard explained that he needs to be in control of his destiny. He felt that construction on the current site would be within the limits of the property. He asked that the Board rule on that site. The only place for the tank is in the center of that site. Any other site will require beginning again and cause further delay into next year. In terms of operating expense, an elevated structure is the solution.

Abutter Mark Hahn noted there are Harvard Acres homeowners that have applied for well permits. The customer base is shrinking, so rates will have to increase. Mr. Wilson added that he and several others on Dunster Drive have drilled wells rather than wait for improvement in water quality. The central water supply was said to have high iron content. A filtration system has been installed to clear up that problem.

Mr. Avery noted that whatever the Board's decision, there could be appeal. He thought it might be prudent for the Town to explore possible water storage sites for a future town water system.

Mr. Tarnuzzer expressed his continuing concern for the small parcel size during tank construction. Mr. Maynard said there could be an issue with the Planning Board special permit that requires the tank be placed as far as possible away from the nearest dwelling. As proposed, the tank will be in the center of the site.

Mr. Maynard pointed out that the DEP wants improved pressure. An alternative to the requested tank is pumping storage with a higher cost. A tank with a 45-ft. diameter and 10 feet high would be required, but the system is not the most cost effective supply method. Mr. Maynard praised Mr. Avery for the fine job in investigating possible alternate sites. However, he noted that any other site will be a problem for someone. He still felt that the current site is the only site. If denied, another solution will have to be sought.

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The hearing was closed at 8:36 p.m.

Following the close of the hearing, there was brief discussion with Mr. Maynard who indicated there were alternate plans should the Board deny the variances.

Upon Mr. Maynard's departure, the Board had conversation with Ernest Dodd of the Planning Board concerning its special permit decision issued for the current Dunster Drive site. It appeared a reapplication for special permit would be required if this Board granted variances for the new structure in the center of the site, rather than as far away as possible from the nearest dwelling.

The Board decided to meet on Monday, September 10th at 1:00 p.m. to discuss and vote on the requests for variance. At the same time, a decision on the special permit heard July 2nd will be addressed. Member Michele Shoemaker chaired the latter and will be advised.

Adjournment - The meeting was adjourned at 9:00 p.m.

Respectfully submitted,
Catherine A. Desmond
Secretary to the Board