

**MINUTES  
ZONING BOARD OF APPEALS  
DECEMBER 10, 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 Michele Shoemaker.

**Lance S. Nichols** - The public hearing was held in Stow Town Building and opened at 7:30 p.m. on the petition filed by **Lance S. Nichols, 1171 Liberty Square Road, Boxborough, Mass.** for variance of ten (10) feet from the fifty (50) foot minimum width requirement under Section 6.1.4 of the Zoning Bylaw, "Hammerhead Lots", between the street line and the buildable area to allow construction of a single-family dwelling on property **off West Acton Road**. The property contains 207,734 sq. ft. (4.77 acre) and is shown on Stow Property Map R-20 as Parcel 31A.

Board members present: Arthur Lowden, John Clayton, Edmund Tarnuzzer, Donald Dwinells, Michele Shoemaker.

Ms. Lowden chaired and read the notice of hearing as it had appeared in the *Beacon Villager* on November 22 and 29, 2007. The hearing notice had been forwarded to all abutters by certified mail, return receipt. Abutters present were Timothy Donohue of 7 Canterbury Road, Jonathan Duprey of 3 Canterbury Road, Utahna Hallet of 303 West Acton Road and Robert and Denise Flynn of 315 West Acton Road. Mr. Lowden recited the criteria to be met for grant of variance.

Russell Wilson of R. Wilson & Associates, Inc., Civil Engineers and Land Surveyors, represented the petitioner. Mr. Nichols would like to construct a single-family dwelling on the parcel containing 4.77 acres. The only access is via a 40-foot strip that was created in 1955 but not utilized, and shown on a plan entitled "Johnson Village Subdivision in Stow, Mass., Section #2" dated February 8, 1955. The strip in question is shown as "Proposed Road". There are wetlands but about 90,000 sq. ft. of upland. Suitable soils have been found for development of the lot for a single dwelling.

The owners are currently paying taxes of about \$4,000 annually. Literal enforcement of the Zoning Bylaw results in financial hardship. Although there are considerable wetlands, there is more than 90,000 sq. ft. of upland, twice the area of abutting lots. There would be no detriment to the public good. The lot meets all requirements for a hammerhead lot except for the 40-foot strip that was created in 1955. All grading for the driveway meets design criteria, so it is not felt there would be derogation from the intent and purpose of the bylaw.

Mr. Tarnuzzer asked how long the petitioner has owned the parcel. Mr. Wilson replied the property has been in the family for some time, probably prior to the 1990's.

Mr. Flynn, direct abutter northerly, could not see there was a financial burden. He did not wish a house behind his property which he felt was not in keeping with the neighborhood.

Ms. Hallet, direct abutter southerly, inquired into water runoff. Mr. Wilson responded there will be a meeting with the Conservation Commission on December 11th for review of the plan to collect runoff by a swale to a sedimentation basin for retention into the wetlands. Ms. Hallet pointed out there is much runoff from Flagg Hill directly opposite. She had concern that a change in the topography will result in increased water onto her property. Mr. Duprey shared those comments. He asked if wetlands would be crossed in order to reach the high ground. Mr. Wilson advised that replication of about 900 sq. ft. of wetlands will be required to the southerly side of the parcel (right of the proposed driveway). The driveway will be about 480 feet long. It is proposed to raise the driveway from the West Acton Road with about six to eight feet of fill. There was agreement that many of the questions should be directed to the Conservation Commission.

A site visit was planned for Thursday, December 13th at 9:00 a.m.

The hearing was closed at 8:07 p.m.

**Scott Himmelmann** - A request was received for a six-month extension of the variance granted January 17, 2007 concerning property at 63 Kingland Road. An extension is needed to provide extra time to finalize plans for the property. Additionally, due to the time required for completion of planning details, the closing on the property did not occur until June, thus negating a summer construction start. The plan now is to start in spring of 2008. On motion of Mr. Tarnuzzer, second by Mr. Clayton, it was voted unanimously to grant a six-month extension of the variance granted January 17, 2007 to July 17, 2008.

**Rotating Chair** - The members reviewed the chair schedule that has been in place for sometime. Several changes were made, especially as regards the change in membership status of Ms. Shoemaker and Mr. Hyde.

**Adjournment** - The meeting was adjourned at 8:20 p.m.

Respectfully submitted,  
Catherine A. Desmond  
Secretary to the Board