

**MINUTES  
ZONING BOARD OF APPEALS  
DECEMBER 13, 2007**

The members met at Stow Town Building at 9:00 a.m. for the purpose of conducting a site visit to Parcel 31A off West Acton Road that had been the subject of a public hearing on December 10th. Members present were Arthur Lowden, John Clayton, Edmund Tarnuzzer, Donald Dwinells and Michele Shoemaker.

**Parcel 31A, West Acton Road - Lance S. Nichols** - The petitioner sought a variance from the 50-foot width requirement of the hammerhead lot zoning bylaw. The members were met at the site by Robert Elliot of R. Wilson & Associates, Inc., Civil Engineers and Land Surveyors, that had presented the petition at the hearing held on December 10th. The proposed location of the access driveway was indicated by orange tape tied to the cement posts of the guardrail along the edge of the road. The members and Mr. Elliot went down the embankment from the road to walk the property that sloped downward. Mr. Elliot pointed out the proposed dwelling location on higher ground, as well as the proposed wetland replication area and other features of the proposal.

The members returned to the Town Building at 9:50 a.m. to review their observations and findings. A wetland crossing is proposed for access to the upland. The petitioner proposes to seek approval from the Conservation Commission for wetland replication elsewhere on the parcel in lieu of wetland filling. Patricia Perry, Administrative Assistant to the Conservation Commission, dropped by and advised that the petitioners' plan is under review. She verified that a wetland crossing will require replication of wetland on a 2 to 1 basis. A Notice of Intent has not yet been filed.

The question of grandfathering as regards the access width was raised. The subdivision plan for Johnson Village Subdivision dated February 8, 1955 shows a proposed road from West Acton Road to the subject parcel with a 40-foot width. The members believed that zoning at the time required a 40-foot width for subdivision roads. The matter of grandfathering was not brought up by the petitioner, nor was the subject mentioned. Because of that, the members reasoned that may not be pertinent to the matter.

Louise Nejad of the Assessors' office revealed history ownership of the parcel from 1993 that showed the then owner as LSN Construction. The parcel went into tax title due to unpaid real estate taxes, but was redeemed upon payment of back taxes in August 2005 by Three Pines Realty and sold to David Morse and Lance Nichols, the petitioners, in January 2007.

The members discussed this information further. Mr. Tarnuzzer moved to deny the variance as the proposal is not in keeping with the intent and purpose of the Zoning Bylaw. Second by Mr. Clayton. The vote was unanimous in favor of the motion to deny.

**Scott Himmelmann** - The members signed the decision to grant a six-month extension of the variance granted Mr. Himmelmann concening 63 Kingland Road. The Board's decision filed with the Town Clerk on January 17, 2007 is extended to July 17, 2008.

**Adjournment** - The meeting was adjourned at 10:15 a.m.

Respectfully submitted,  
Catherine A. Desmond  
Secretary to the Board