

**ALAN & JULIE FISH**  
**PETITION FOR VARIANCE**  
**APRIL 7, 2008**

The public hearing was held in Stow Town Building and opened at 7:30 p.m. on the petition filed by **Alan and Julie Fish, 63 Robert Road, Stow** for side yard variance of approximately five (5) feet under Section 4.4 of the Zoning Bylaw, "Table of Dimensional Requirements", to allow construction of an approx. 19-ft. x 40-ft. addition approx. twenty (20) feet from the lot line at said address. The property contains 52,106 sq. ft. and is shown on Stow Property Map R-14 as Parcel 5A-39.

Board members present: John Clayton, Edmund Tarnuzzer, Michele Shoemaker, William Byron (associate), Bruce Fletcher (associate).

Ms. Shoemaker chaired and read the notice of hearing as it had appeared in the *Beacon Villager* on March 20 and 27, 2008. The hearing notice had been forwarded to all abutters by certified mail, return receipt. Abutters present were David and Carolyn Elkins, 55 Robert Road; Stephen Mark, 56 Robert Road; Robert Emerson, 62 Robert Road; and Warren Mason, 43 Robert Road. Ms. Shoemaker recited the criteria to be met for grant of variance.

Mr. Fish presented the petition for variance to allow an addition to the existing dwelling. He said there is a restriction in the sitting of an addition due to the 10-foot drainage easement at the rear of the dwelling. Their information is there is a 4" perforated pipe within the easement to provide drainage of their property and that of a neighbor. The proposed single-story addition with basement will be constructed on the right-hand side of the dwelling. The new space is intended to add an office/guest room to the front for Mr. Fish and an entertainment space to the rear. The new office space will allow him some privacy and will provide accommodation for visiting parents. The addition is intended to balance the architecture of the house. The left-hand side has a similar single-story attachment containing the family room and kitchen. Mr. Fish said they previously lived in Kirkland Drive. They care for the neighborhood and have made improvements to the property that they believe have enhanced the neighborhood.

A memo was received from Building Inspector Craig Martin following his review of the plan. The addition is shown over the existing sewage disposal system soil pipe and septic tank. Relocation of those components would be required with approval of the Board of Health. Prior to design, a test pit should be completed to confirm the location of the 4" perforated drain pipe within the easement. Mr. Fish said it is proposed to move the septic tank to the other side of the easement. Additionally, care will be taken to avoid injury to existing trees on that side of the lot which adjoins that of Mr. Elkins.

David Elkins of 55 Robert Road, a direct abutter, felt that the 25-ft. side yard setback was a requirement for a reason and should be observed. He felt that an addition could be constructed without a variance. He had concern for the construction phase and possible damage to the trees along the common lot line. He noted that of the 33 houses in the Robert Road vicinity, there have been no variances granted, and additions have been constructed in observance of setbacks. Mr. Elkins believed that an addition of the size proposed should not be allowed. The existing house is already large. He also had concern about the drainage easement. There is currently water in his basement. He questioned the hardship issue and felt that grant of variance would set a precedent.

Mrs. Fish said that an attempt to locate the 4" pipe had been made by digging down to five feet, with no result. Mr. Fletcher commented that the pipe appears to end at a 30-ft. drainage swale easement.

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Ms. Shoemaker asked if it will be possible for construction equipment to keep within the property lines. Mr. Fish said that would be done and there will be no tree damage.

Mr. Elkins again voiced his objections. Mr. Fish responded they want the house to fit into the neighborhood and noted there is a nearby house with similar architecture. He believed the addition will increase the value of the property and enhance the neighborhood.

Warren Mason of 43 Robert Road thought the addition would be similar to that of the Woods on Nyra Road constructed without variance. Robert Emerson of 62 Robert Road believed the Fish addition could be constructed without a variance to which he would have no objection.

Asked the existing and proposed square footage, Mrs. Fish said it is currently 2,700 to 2,800 sq. ft. The addition would add 800 sq. ft. Mr. Fletcher asked if the easement is deeded and to whose benefit. It was thought it was to both the Fish and Elkins property owners. Mr. Fletcher commented that there are numerous interceptor drains in the area intended to drain water away from septic systems.

Mr. Fish noted they are seeking a five-foot variance but could consider reduction to three feet.

Mr. Elkins inquired into the definition of "hardship". Mr. Tarnuzzer responded that it concerns financial or otherwise, the latter being a judgment call by the Board. Whether granted or not, the decision of the Board is subject to appeal.

Mr. Emerson, an abutter at 62 Robert Road, across the road, was concerned with what he feels is a very large addition. He has seen large houses in other towns which he feels are out of place with the neighborhood. Mr. Elkins commented that no homes in the area are "in balance".

With regard to the pipe in the easement, Mr. Fish said their advice is that it would be a very large project to relocate. Engineers they contacted did not feel it was a good idea to attempt to move it. It appeared to Mr. Fletcher that it is an inceptor to dry up the area to allow the septic system.

Stephen Mark of 56 Robert Road was in favor of the proposal and believed the addition would enhance the neighborhood.

The Board planned a site visit for Friday, April 11th.

The hearing was closed at 8:20 p.m.

Respectfully submitted,  
Catherine A. Desmond  
Secretary to the Board