

**MINUTES  
ZONING BOARD OF APPEALS  
MAY 12, 2008**

The meeting was held in Stow Town Building and opened at 7:30 p.m. Board members present were Edmund Tarnuzzer, Michele Shoemaker, Richard Martin (associate), Charles Barney (associate) and Bruce Fletcher (associate).

**Derby Woods, LLC** - The public hearing was held in Stow Town Building and opened at 7:30 p.m. on the application filed by **Derby Woods, LLC (fka Landwest Development, LLC), 148 Park Street, North Reading, Mass.** for Special Permit under Section 5.2.2.3 of the Zoning Bylaw, "Water Resource Protection District", to allow generation of on-site sewage disposal exceeding 110 gallons per day per 10,000 sq. ft. of lot area with regard to Lots 22, 23, 24, 25, 26, 32 and 33 of the **Derby Woods Planned Conservation Development Subdivision** located on **Dunster Drive**. The subject lots contain 27,722 to 37,310 sq. ft. each and are shown on Stow Property Map R-5 as Parcels 80-22, 80-23, 80-24, 80-25, 80-26, 80-32 and 80-33.

Board members present: Edmund Tarnuzzer, Michele Shoemaker, Richard Martin (associate), Charles Barney (associate), Bruce Fletcher (associate).

Mr. Tarnuzzer chaired and read the notice of hearing as it had appeared in the *Beacon Villager* on April 24 and May 1, 2008. The hearing notice had been forwarded to all abutters by certified mail, return receipt. Abutter James Ogg of 63 Lowell Drive was present, as was Ernest Dodd of the Planning Board. Mr. Tarnuzzer recited the requirements for grant of special permit

Richard Harrington of Stamski & McNary, engineers, represented the applicant. He explained that the proposed project is Phase 2 of the Derby Woods subdivision. Four years ago an application was filed (March 9, 2004) to allow four-bedroom homes on the subject lots. The Water Resource Protection District, in which the lots are located, requires a minimum lot area of 40,000 sq. ft. The purpose and intent of that standard has been met through the designation of portions of the open land within the WRPD as "credit land" that is within Board of Health regulations. A two-year extension of the special granted in 2004 was requested of the Board of Appeals on April 20, 2006 and was granted to expire June 11, 2008. Because there can be no further extension of the special permit that has not been exercised, this is a new application. Mr. Harrington stated that nothing has changed from the original application in 2004. Development is still ongoing off Harvard Road on Sylvan Drive.

Mr. Tarnuzzer noted that the extension has not yet expired. Mr. Harrington replied that the applicant wished to move forward with the new application at this time in the interests of financing. Ms. Shoemaker asked when construction on Phase 2 might begin. Mr. Harrington responded that it might be next year, but due to the current economy there could be a request for extension.

The hearing was closed at 7:40 p.m.

Following the close of the hearing, the Board determined that the hearing was actually on a re-application of that heard and granted in 2004 with no change. Mr. Barney moved to grant the requested special permit noting that this is a re-application with no changes from the previous application. Mr. Martin seconded. The vote was all in favor to grant the requested special permit.

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**Villages at Stow** - The Board met with G. H. Gledhill, Cemetery Superintendent, who is qualified through lottery for an affordable unit to be constructed on EUA #30, 17 Orchard Drive. Recently he was contacted and informed that another unit was available. His requirement that his truck be accommodated could not be met with the offered unit. He wants the developer to hold to the January agreement for 17 Orchard Drive. If the alternate unit is refused, he will be put to the end of the list. The subject unit is designated as "EmpLocal" and Mr. Gledhill wants the developer held to that. One requirement was that a check for \$1,500 be deposited to hold the unit for a purchase and sale agreement. He said his check was held by the developer until the last day of 2007. The unit has not been built but those on either side have been.

Mr. Tarnuzzer felt that the designated affordable units are part of the comprehensive permit, and that any change would have to come before the Board. Ernest Dodd of the Planning Board was in agreement and felt the developer must explain to the Board the reasons for change. There must be proportional affordable units as development progresses.

Mark O'Hagan of MCO Associates arrived at 8:10 p.m. and was later joined by Bruce Wheeler of Habitech, developer of Villages at Stow. Mr. O'Hagan said that the percentages of market vs. affordable units are in line. The schedule has been slow because of the lottery process. The dwelling designated for EUA #30 has a side entrance garage that is found to be better received. There was an interested party for that style, but they backed out. Mr. O'Hagan pointed out that Mr. Gledhill has been offered another unit. He understood he would go to the bottom of the list.

Mr. Tarnuzzer noted the Board has not heard that the developer wishes to make a change. Mr. O'Hagan responded they have not done anything in that regard as yet. If they want to make a change they would talk to the Housing Board. He said that the comprehensive permit did not lay out specific units nor did the regulatory agreement. Mr. Tarnuzzer called attention to a letter from attorneys D'Agostine, Levine, Parra & Netburn dated September 26, 2006 that included a list of the affordable and moderate units, and he considers it part of the comprehensive permit. That schedule is still valid.

Kathleen Sferra of the Conservation Commission pointed out there is a person qualified to purchase the unit in question. She felt the developer should honor the request. Mr. O'Hagan replied that Mr. Gledhill has turned down other offers. There is one affordable single-family unit in the approval process. The intent is to balance single-family homes this year. Two to four are in process of final plans, but it is not his decision as to which one is started. This is the lot that losses them money. They have to have enough market rate sales to continue to support affordable sales. This is a difficult environment and there are other Habitech projects under construction at the same time. Mr. Gledhill indicated he was willing to wait for EUA #30.

Mr. Tarnuzzer summarized: Habitech is on a schedule, and there will be an affordable house on that lot. They are on track but it is slow.

The meeting was adjourned at 8:30 p.m.

Respectfully submitted,  
Catherine A. Desmond  
Secretary to the Board