

**MINUTES**  
**ZONING BOARD OF APPEALS**  
**APRIL 9, 2009**

The members met at Stow Town Building at 9:00 a.m. for the purpose of conducting site visits to properties that had been the subject of public hearings on April 6, 2009. Members present were John Clayton, Edmund Tarnuzzer, Michele Shoemaker, William Byron (associate) and Bruce Fletcher (associate).

**Boon Road - Andrew Martin** - The area was observed where the lean-to addition to the pole barn is proposed. It was noted there is a tree line behind the stonewall that tends to provide screening of the barn. The barn was quite full with various types of farm/orchard equipment. The stream mentioned at the hearing bisecting the property was seen running at a good rate.

**70 Pine Point Road - Richard & Diane Bleau** - Existing conditions were observed. The open deck is to be replaced with a screen porch and a small deck above grade. The new roof dormer will extend from the ridge of the existing roof on the westerly side toward the lake and over the area shown on the plan as an office.

**214 Barton Road - Shirley Rothwell** - The members spent some time observing existing conditions in relation to the proposed replacement dwelling.

The Board members returned to the Town Building at 10:10 a.m. to continue the meeting.

**214 Barton Road - Rothwell** - It did not appear to the Board there would be further encroachment into the side yards from existing conditions, therefore, it was not felt that variance would be required. The replacement dwelling would be constructed basically on the same footprint and at the same height. The new structure will be moved forward toward the road by three or four feet and away from the lake by the same distance. The existing floor area was said by the applicant to be 1,805 sq. ft., while the proposed house will contain 1,960 sq. ft. The members did not feel that was a significant difference. On motion of Mr. Clayton, second by Mr. Tarnuzzer, it was voted unanimously to grant the special permit under Section 3.9.7 of the Zoning Bylaw.

**Boon Road - Martin** - Mr. Byron noted the section of Chapter 40A cited by Mr. Martin at the hearing as relates to agricultural uses to the effect that the ZBA cannot unreasonably regulate such activity. He questioned the current location of the pole barn close to the property line, noting there is ample land available to Honey Pot Hill Orchards to construct another barn elsewhere. It was noted that the running stream on this parcel tends to limit new construction as it must be at least 100 feet away. The lean-to would not appear to be substantially more detrimental to the neighborhood, and might provide improvement because equipment will be under cover. There appears to be a sufficient buffer to neighboring properties. On motion of Mr. Tarnuzzer, second by Mr. Clayton, it was voted unanimously to grant the requested seven (7) foot rear yard variance under Section 4.4.

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**70 Pine Point Road - Bleau** - It appeared to the members that the proposed roof dormer addition and screen porch with sundeck was in keeping with other structures in the neighborhood. Concern was expressed that the screen porch continue to remain as such with no further enclosure to create year-around use. On motion of Mr. Tarnuzzer, second by Mr. Fletcher, it was voted unanimously to grant a special permit under Section 3.9 and a side yard variance under Section 4.4 with the provision regarding the screen porch status.

**Richard Nelson** - Mr. Nelson had left additional material in the Board's mailbox, but it was not felt adequate. The question was raised if the subject parcel on Sudbury Road was a buildable lot in 1941. It was determined that Sudbury Road itself was established well before 1941. Mr. Nelson did not own the parcel in 1941, having acquired it only a year or so ago. The parcel would not contain 40,000 sq. ft. without using Sudbury Road square footage in the lot area calculation. The plan submitted to the Board was labeled as a plot plan rather than a surveyed plan, therefore, its accuracy was questioned. Also the several places on the plan where monuments or iron posts were indicated were not marked as "found".

Ms. Shoemaker had been in contact with Town Counsel Jonathan Witten who had been previously consulted by the Building Inspector in this regard. He was to furnish copies of material related to the matter.

On motion of Mr. Clayton, second by Ms. Shoemaker, it was voted unanimously that Mr. Tarnuzzer will draft for consideration of the members decisions as voted in the Martin, Bleau and Rothwell matters..

**Adjournment** - The meeting was adjourned at 11:10 a.m.

Respectfully submitted,  
Catherine A. Desmond  
Secretary to the Board