

MINUTES
ZONING BOARD OF APPEALS
MAY 14, 2009

The members met at Stow Town Building at 9:00 a.m. for the purpose of conducting a site visit to the property that had been the subject of a public hearing on May 11, 2009 and to later meet in the building. Members present were John Clayton, Edmund Tarnuzzer, Michele Shoemaker and Bruce Fletcher (associate). Charles Barney was unable to attend due to shoulder surgery two days before.

Boon Road - Andrew Martin - At the invitation of Mrs. Frost, the members traveled to the Frost residence at 149 Whitman Street to observe existing conditions from the common lot line that is the Frost side yard. The members were joined by Mrs. Frost and Mr. Martin. The southerly corner of the existing pole barn could be seen beyond a row of evergreen trees along the rear side yard. The group then moved to the Boon Road site where more observations were made.

The Board members returned to the Town Building at 9:40 a.m. to continue the meeting.

Boon Road - Andrew Martin - On motion of Mr. Clayton, second by Mr. Fletcher, it was voted unanimously to rescind the vote of April 9, 2009 that granted a seven (7) foot rear yard variance for the lean-to addition. On motion of Mr. Fletcher, second by Mr. Clayton, it was voted to deny that requested variance without prejudice as there had been a misinterpretation of the Zoning Bylaw with regard to rear yard versus side yard. A new petition had been filed and was heard on May 11, 2009 to seek the applicable variance.

The site visit was conducted in connection with the second petition seeking a twenty-two (22) foot rear yard variance. The lean-to addition will be affixed to the ground by supports within sono-tubes cemented into the ground. The new construction will be a continuation of the existing roof line and will match that of the barn in color and type. It is proposed the wagons to be stored within the lean-to will enter the property from Whitman Street rather than Boon Road. Mrs. Frost called attention to a drainage issue that may or may not be responsible for the loss of vegetation as she claims. It might be necessary to remove a large tree. As an alternative, the tree could be saved if the lean-to was not attached to the entire length of the barn. It appeared that the Building Inspector who issued the building permit for the barn had interpreted the frontage as Whitman Street, making the rear of the barn as being along the side yard. The members noted that the hay wagons could be stored behind the barn without a lean-to, but covered with tarps.

On motion of Mr. Tarnuzzer, second by Mr. Fletcher, it was voted unanimously to grant a rear yard setback variance of twenty-two (22) feet to allow construction of the lean-to eighteen (18) feet from the lot line.

Sudbury Road - Richard Nelson - The Board had obtained a copy of the Building Inspector's letter denying a building permit for the subject parcel as the appellant had not included it with his application. The conclusion was that the parcel does not meet grandfather status and is not in

compliance with the Zoning Bylaws. The Assessors' records list the parcel as "unbuildable". Mr. Tarnuzzer had drafted a decision upholding the Building Inspector's denial and read it to the members. The parcel does not meet the 1965 lot area minimum requirement of 40,000 sq. ft.

Mr. Tarnuzzer moved to uphold the Building Inspector's denial of grandfather status as regards the subject parcel. Second by Mr. Fletcher. All were in favor of the motion.

Mr. Tarnuzzer was to make several revisions to the draft decision and then forward it to Town Counsel Jonathan Witten for review and approval. Several members were of the opinion that the Board's decision will be appealed to Land Court.

Old Bolton Road - Stow Recreation - The members reviewed Section 7.7.4.1 of the Zoning Bylaw related to screening of off-street parking areas located within a Residential District. The opinion was that it does not specifically require screening with a fence. Rather, the requirement is for the use of "an opaque screen" from the ground to a height of at least six feet with intermittent visual obstruction to a height of at least twenty feet. The screen may be composed of a wall, fence, landscaped earth berm or densely planted vegetation in a mix of deciduous and evergreen varieties. It was noted the Police Department does not want an obstructed view from the road. There is currently a row of trees near the roadway. In order to install a fence, it will be required to remove some of those trees.

Ms. Shoemaker felt that vegetative fencing could be termed opaque if planted in a staggered fashion. The Planning Board interpretation of the bylaw appears to be that "opaque" means a fence. A 6-foot stockade fence, as shown on the plan, does not appear to be required under the bylaw, but it is an option.

Ms. Shoemaker was to draft a decision as regards the opaque screening issue to be reviewed by the members and discussed at the next meeting on June 1st.

Adjournment - The meeting was adjourned at 10:55 a.m.

Respectfully submitted,
Catherine A. Desmond
Secretary to the Board