

**MINUTES  
ZONING BOARD OF APPEALS  
SEPTEMBER 18, 2009**

The members met at Stow Town Building at 9:15 a.m. for the purpose of conducting a site visit to Lot 33 North Shore Drive that had been the subject of a public hearing on September 14, 2009 and to thereafter return to the building for discussion. Board members present were Arthur Lowden, Edmund Tarnuzzer, Charles Barney (associate), William Byron (associate) and Bruce Fletcher (associate).

**Lot 33 North Shore Drive - Erik Haugsjaa** - The members were met at the site by Mr. Haugsjaa who accompanied them on a walk of the property. The proximity of structures on the abutting lots, Meeker and Corkum, was observed. It appeared the lot had been used in the past as a short cut and fire access road. The Board had asked at the hearing the height of the proposed dwelling. The applicant now said it would be 34 feet high from grade.

The members returned to the Town Building and were joined by Mr. Haugsjaa. Mr. Tarnuzzer stated the Board had two choices: to deny the special permit for the pre-existing, non-conforming lot or to grant a special permit with conditions. It was noted that a special permit had been granted for Lot 32, not owned contiguously, so there appeared to be some precedent. Based on the documents presented, Lot 33 does not appear to have been in common ownership with another lot at the time of the zoning change in 1954. Lots 33 and 34 were in common ownership from 1946 through 1952. Lot 33 was transferred in 1953. The lots were located in "A" District as being 1,000 feet from the shoreline of Lake Boon as provided in the February 1949 zoning bylaw, therefore, it appeared to the Board that Lot 33 is a buildable lot with no need for special permit. Relief also exists in Chapter 40A concerning single lot exemption.

Mr. Fletcher questioned a change of use, referring to Section 3.9 of the zoning bylaw. It was noted that Lot 33 is within a residential district and is a residential lot, an allowed use.

It was the general opinion that a special permit be denied on the basis that it is not required. Lot 33 is a legal pre-existing, non-conforming lot. It was noted that the Building Inspector had concern about surface drainage onto the road and abutting properties. It did not appear there would be a problem in this case as the lot is currently lower than the road. Mr. Fletcher pointed out the general bylaw that prohibits runoff onto a public way or abutting property. The Building Inspector should be aware of any potential runoff problem.

Mr. Fletcher moved to deny a special permit as unnecessary based upon the documentation presented and Chapter 40A that allows this use on a pre-existing, non-conforming lot. Second by Mr. Barney. The vote was unanimous in favor of the motion to deny a special permit. Mr. Tarnuzzer was to draft a decision based on the vote to be reviewed by the members for comment. Thereafter, Town Counsel was to be requested to review.

The meeting was adjourned at 10:45 a.m.

Respectfully submitted,  
Catherine A. Desmond  
Secretary to the Board