MINUTES
ZONING BOARD OF APPEALS
AUGUST 1, 2005

The meeting was held in Stow Town Building and began at 7:30 p.m. Board members present were Donald Hyde, Edmund Tarnuzzer, Michele Shoemaker (associate), Lee Heron (associate) and William Byron (associate).

Kent & Debra Seith – The Seiths met with the Board concerning the denial of a special permit to allow the addition of a second story to their dwelling at 11 Hale Road. The applicants had sought to raise the roof by twelve feet to accommodate two bedrooms and to create attic space for storage. The Board's decision had objection to the twelve-foot height and noted that the previous owner had been granted a special permit for an eight-foot height addition. The Seiths did not feel that was an option for them. They feel attic space is essential as there is no other adequate storage space, the basement being very damp. Rather than a five-foot head room, a six-foot or seven-foot height had been proposed. They also pointed out there are many dwellings in the neighborhood with three stories. It is not their intent to create bedrooms in the proposed attic space.

Mr. Tarnuzzer's comment was that it was felt that the height granted by the previous special permit was felt to be adequate. The issue was the total overall height. Also, it was pointed out that Town Counsel had advised there is currently a special permit in place for the property that will be valid until September 2nd. The permit is attached to the property, and not the owner. Because of that fact, the Board could not grant another special permit for the property.

The Seiths indicated they would rethink the request and probably reapply in the fall.

William Caira – The Board reviewed its findings as the result of the site visit on August 5th. Mr. Byron had been advised by the Planning Board that a driveway is considered a structure under the Zoning Bylaw, but there are no setback requirements. There is a small brick cottage in poor condition. The proposal is for a dwelling that would be three times as large as that existing. Mr. Tarnuzzer did not feel the proposed dwelling was in keeping with the intent and purpose of the Zoning Bylaw. Although the house would meet setback requirements, he did not feel it would be in keeping with the neighborhood. Mr. Heron agreed that size was the issue. The lot frontage is 117 feet.

Ms. Shoemaker noted the current 1,200 square feet versus the proposed 3,300 square feet. The footprint would be more than 25% outside the current footprint. It seemed to her a very large house on a narrow lot. It was noted there is a large house to the rear fronting on Walnut Ridge Road, but those opposite are not as large and in the two-story colonial style.

Mr. Heron pointed out that the applicant had said he would eliminate a fourth bedroom. Mr. Tarnuzzer responded that was not an issue, only the size of the proposed house. He noted the Board's authority does not allow dictation of design. He reiterated that a house twice the

current size would be acceptable to him. Ms. Shoemaker was in agreement. Mr. Byron noted that the house seems very large, given that the lot is narrow.

Mr. Tarnuzzer moved to deny the special permit, without prejudice, for the reasons previously discussed. Mr. Byron seconded. The vote was members Tarnuzzer, Shoemaker and Byron in favor of denial. Hyde and Heron no vote. Based on the required vote of four out of the five members participating, the special permit was therefore denied.

Mr. Caira was in attendance throughout the discussion. The term, without prejudice, was explained to him. He was not accepting of the decision and left the room, slamming doors behind him.

Jennifer J. Smith – The public hearing was held in Stow Town Building and was opened at 8:11 p.m. on the application for Special Permit filed by **Jennifer J. Smith, 28 Peabody Drive, Stow** under Section 3.9 of the Zoning Bylaw, "Non-Conforming Uses and Structures", to replace an existing 12-ft. by 16-ft. screened porch with a 16-ft. by 16-ft. three-season room at said address. The property contains 22,993 sq. ft. and is shown on Stow Property Map Sheet R-6 as Parcel 139.

Board members present: Donald Hyde, Edmund Tarnuzzer, Michele Shoemaker (associate), Lee Heron (associate) William Byron (associate).

Mr. Hyde chaired and read the notice of hearing as it had appeared in the *Beacon Villager* on July 14 and 21, 2005. Notice of hearing had been forwarded to all abutters by certified mail, return receipt. No abutters were present. The requirements for grant of special permit were recited.

Jennifer Smith was present and explained that the existing screened porch at the rear of the dwelling is in disrepair. It is proposed to replace it with a three-season room to project four feet into the rear yard. There will be no encroachment on lot lines, and no variance is required. The new room will be single story and no higher than the existing porch and with a shed roof of a slightly different pitch due to the longer roof line.

The Board planned a site visit for Friday, August 5th.

The hearing was closed at 8:19 p.m.

Union Church of Stow – The public hearing was held in Stow Town Building and was opened at 8:20 p.m. on the application for Special Permit and petition for Variance filed by **Union Church of Stow, 317 Great Road, Stow**. A special permit was sought under Section 7 of the Zoning Bylaw, "Parking Regulations", to allow construction and enlargement of the existing parking lot at said address. Variances were sought from Section 3.9, "Non-Conforming Uses and Structures", and Section 7, "Parking Regulations". The property contains 56,375 sq. ft. and is shown on Stow Property Map Sheet U-10 as Parcels 36 and 38.

Board members present: Donald Hyde, Edmund Tarnuzzer, Michele Shoemaker (associate), Lee Heron (associate), William Byron (associate).

Mr. Hyde chaired and read the notices of hearing as they had appeared in the *Beacon Villager* on July 14 and 21, 2005. Notices of hearing had been forwarded to all abutters by certified mail, return receipt. Malcolm FitzPatrick of 323 Great Road was in attendance. The requirements for grant of special permit and criteria for grant of variance were recited.

The applicant was represented by Robert Mong who was accompanied by engineer Duncan Brown. It is proposed to expand the existing parking area to add more spaces and to bring it more in compliance with the number required under the Zoning Bylaw. Even so, it will still not meet the requirements. The current 52 spaces will increase to 68 plus three handicapped. In order to create as many as possible, it is necessary to request relief from the requirements.

Mr. Brown proceeded to explain the variance requests and the special permit application, as included with the submittals.

(a) 7.2.1 minimum parking for religious: one space per three seats, or one space for each four persons to maximum rated capacity of the hall or meeting room, whichever is greater. *The proposed sanctuary will have 263 seats + 3 = 88 spaces. Fellowship Hall will have 110 seats + 4 = 28 parking spaces. Parking spaces proposed are 68 plus 3 handicapped (81%).*

(b) 7.2.3.1 Special Permit – Relief: *The lack of parking spaces will not create undue congestion or traffic hazards on or off the site.*

(c) 7.4 Off-Street Loading Areas: *No separate off-street loading areas designated on the plan. Loading and unloading will be done from the main parking area.*

(d) 7.7.1 Setbacks: 30 feet required from front lot line and 10 feet from the side and rear. *The plan proposes a setback of **18** feet from the front lot line.*

(e) 7.7.2 Access Driveways: No more than one additional access driveway for each 200 feet of frontage, and all such additional access driveways shall be at least 200 feet apart, center to center. *The plan proposes to keep the existing two access driveways in the same location at 97 feet center to center. The lot frontage is 199.07 feet total.*

(f) 7.7.4.1 Residential District vegetative screening: A 30-foot buffer of vegetative screening shall be placed between lots, with 6-ft. opaque and 20-ft. total screening along property lines. *Vegetative screening will be placed inside the lot line to screen adjacent buildings, but not along the entire property lines.*

(g) 7.7.5 Interior area landscaping: At least 10% of the interior area of the parking shall have landscaped island areas. *No interior landscaped island areas are proposed. No curbs or concrete stop logs are proposed within or at the edges of the parking area. The parking lanes*

and stalls will be designated by paint only, as will areas of no parking and handicapped stalls. Movable signs (cast in buckets of concrete) will be used at the handicapped spaces.

(h) 7.7.6.1 Minimum of one shrub per 30 sq. ft. of interior island area and one shade tree per ten parking spaces. *There will be appropriate shrubs and trees as part of the building landscaping, but not in the parking area.*

(i) 7.7.7 Lighting: *Proposed for the future. Temporary lighting will be from fixtures attached to the church structure facing the parking lot.*

(j) 7.7.8 Bonds, Securities: *The applicant requests a variance not to provide a bond for the parking lot construction and two-year maintenance of the landscaping.*

(k) 3.9.1.4 Setbacks: No parking shall be closer than 35 feet from the side or rear lot line, nor closer than 50 feet from the street line. *In order to maximize the number of parking spaces on the lot toward the calculated number of spaces, the lot layout needs to have side and rear lot line setbacks of only 10 feet and street line setback of only 18 feet.*

(l) 3.9.1.5 Screening: Parking shall be screened from the view of abutting properties and the view from public ways by vegetative screens, opaque fencing or topography. *There will be vegetative screening provided by shrub and tree plantings and vegetative cover within the setbacks provided, however, it will not be 100% visual screening.*

(m) 3.9.1.6 Loading Area. *There will be sufficient space on site for materials and products loading and unloading. The parking lot will provide sufficient space on site for loading and unloading, but the space will not be designated by signs nor painted markings.*

Mr. Mong advised that most of the new parking spaces will be created westerly on the former academy lot with expansion into that area. Mr. Brown pointed out that over the last 100 years of the church's existence land was taken for road widening and zoning bylaws came into effect. It will be possible to retain a ten-foot buffer strip on all three sides of the property, but only 18 feet at the street line. The existing treed area at the road will be reduced to a small grassed island. The sidewalk will remain. The current entrances will be squared off and widened. Expansion is mostly confined westerly of the church structure.

Mr. Mong said that congregants wish the lot to be lighted. The plan shows the locations of four 20-ft. poles with downward illumination. They would light 60% to 70% of the lot.

Mr. Brown explained the proposed rainwater collection system that includes a sand chamber that filters water into the ground. Water from a storm that results in greater runoff would be directed to a town drain. Mr. Brown advised that the Supt. of Streets has been contacted in this regard.

The septic system under the parking lot is to be replaced, and 50% of the lot will be disturbed. Because of that event, it is proposed to make changes to the parking area itself, and that is the reason for the requests before the Board.

Malcolm FitzPatrick, a direct abutter to the rear of the church property, read from a prepared statement and took issue with the proposal. He stated that he was representing only himself as an abutter and not as an elected member of the Planning Board. Mr. FitzPatrick has a deeded easement across church property to reach his property. It was his opinion that parking is an accessory use under the zoning bylaw and not entitled to any exemptions. He did not feel that the conditions for grant of variance had been demonstrated. It was also his opinion that the proposed expansion is to meet a future need for additional parking because of expansion of the church building and uses, and that expansion is not the subject of the application. Mr. FitzPatrick did not want the vegetated buffer reduced, nor did he feel there should be exemption from the screening of the parking lot nor the type of plantings. He noted the expansion does not provide for adequate snow storage areas.

Following Mr. FitzPatrick's remarks, Mr. Byron asked if his objection was to the proposed plan or only to specific facets. His response was that, as submitted, he could live with some parts but not with others, such as setbacks. He found the total plan objectionable.

The Board members planned a site visit for Friday, August 5th.

The hearing was closed at 9:34 p.m.

Site Visits – The Board planned to visit the subject properties on Friday, August 5th commencing at 10:00 a.m.

Adjournment – The meeting was adjourned at 9:40 p.m.

Respectfully submitted,
Catherine A. Desmond
Secretary to the Board