

**Zoning Board of Appeals
Minutes
March 11, 2024**

A meeting of the Zoning Board of Appeals was held in person at 380 Great Road, Stow, and via Zoom Web Conferencing Service on March 11, 2024, at 7:00 pm.

Present: David Hartnagel, Andrew Crosby, Andrew DeMore, and Ernest Dodd

Associate Members: Leonard Golder and Maria McFarland

Absent: Ruth Kennedy Sudduth and Associate Member Michael Nail

Staff Present: Michael Slagle

David Hartnagel called the meeting to order at 7:00 pm.

Public Hearing: 58 Randall Road – Special Permit; Continued from February 5, 2024
Members Participating: David Hartnagel, Andrew Crosby, Andrew DeMore, Ernest Dodd, and Associate Member Leonard Golder
Present: Peter Brown (Applicant)

David Hartnagel reopened the Public Hearing at 7:00pm. He provided an overview of the Public Hearing process for members of the public.

Peter Brown presented to the Board. He began his presentation by addressing concerns raised during the previous meeting. One concern raised was that the driving range will be a TOPGOLF facility; Peter Brown clarified that the driving range would use the golf ball tracking technology of TOPGOLF but would not be a TOPGOLF branded facility. He revised his proposal to no longer include the TOPGOLF technology. Instead, the driving range is proposed to have a radar system that will track golf balls.

Peter Brown stated that the radar system can track golf balls without lighting the driving range; lighting the range was a concern raised by some members of the Public. He showed a video of the use of the technology. The video showed a dark driving range and a person hitting a golf ball. A screen adjacent to the golfer showed the statistics of the struck ball, like how far the ball was hit. There was no lighting of the driving range in the video.

Peter Brown reiterated that there will be no affiliation with TOPGOLF. He reminded the Board that the driving range will use an existing fairway of the Stow Acres Country Club South Course.

Peter Brown stated that the Special Permit is sought under Section 3.9 of the Zoning Bylaw because the site is a pre-existing non-conforming use, existing prior to the adoption of the Zoning Bylaw. He stated that Section 8.4 of the Zoning Bylaw does not apply.

Peter Brown acknowledged that a previous Special Permit restricted the hours of operation of the existing driving range to one-half hour before sunrise and one-half hour after sunset. He requested that the hours of operation be modified to 6:00am to 10:00pm.

Peter Brown identified how far away the proposed driving range will be from dwellings on abutting properties. He stated that the proposed driving range will be over 500 feet from the closest dwelling.

Peter Brown presented images of what the existing viewshed onto the property. He stated that the viewshed for the abutting properties will experience minimal impact, largely due to the setback of the range and the topography of the site.

Peter Brown stated that he has heard that there was concern regarding outdoor music at the driving range. He stated that there is no intent for outdoor music. He stated that he is not opposed to a condition restricting outdoor music.

Leonard Golder asked if there will be any music on the site. Peter Brown responded that there will be background music within the snack bar portion of the proposed driving range building, but not outdoors.

Peter Brown stated that the Town has purchased land and a conservation restriction on the Stow Acres property. He stated that the \$5 million received from the Town in the purchase will be reinvested into the remaining Stow Acres property, including the driving range. He added that the \$5 million is less than the appraised value of the acquisition.

Peter Brown concluded his presentation by stating the two waivers he is seeking in this application.

1. Amending the allowed hours of operation to be 6:00am to 10:00pm.
2. Allowance to use "glow sticks" in the range portion of the driving range.

Peter showed a sample glow stick to the Board. The glow stick was a long cylinder with internal LED lights that illuminated in a blue hue. He stated the purpose of the glow stick was to provide a small target for patrons using the driving range at night. He requested to be allowed 5 glow sticks.

David Hartnagel asked if there will be any changes to the poles and protective netting. Peter Brown responded that there will be no changes to the poles or netting.

Ernest Dodd acknowledged that the glow sticks may be a suitable target for patrons of the driving range. Peter Brown stated that the glow sticks could have their color adjusted so that patrons can use a color code to know how far away the targets are.

Andrew Crosby asked about the hours of operation. Peter Brown stated that the hours of operation were from a Special Permit from 1989. He added that there have been changes since 1989 making the request needed. David Hartnagel stated that the Board is not bound by decisions made by previous Boards.

David Hartnagel asked about the lighting in the driving range bays. Peter Brown responded that there will be overhead lighting in the driving range building above the driving range bays, but the exact fixtures have not been selected.

David Hartnagel asked what the heating source will be for the driving range bays. Peter Brown stated that the heating source will likely be propane. Ernest Dodd asked if natural gas was considered. Peter Brown stated that natural gas may be infeasible as there are anticipated

delays with National Grid, the natural gas provider. Andrew Crosby asked if heat pumps were considered. Peter Brown stated that heat pumps are an option, though the details on the heating system will be figured out after the Special Permit process.

Leonard Golder asked if the hours of operation will be for 365 days a year. Peter Brown responded that there is a natural decrease in the operation of the course during the winter. David Hartnagel interpreted the requested hours of operation to allow the business to operate during the specified hours instead of requiring it to be open during those hours; he asked if this is correct. Peter Brown confirmed.

David Hartnagel recalled that patrons of the driving range can order food or beverages at the snack bar. He asked if there will be speakers that will let the patrons know when the food or beverages will be picked up. Peter Brown stated that patrons will be notified using a handheld pager system.

Andrew Crosby asked if there will be noise amplification coming from activities at the driving range bays. Peter Brown stated that noise damping features could be placed in the structure. He noted that almost all dwellings are 600 feet away, and that trees can help absorb sound. Ernest Dodd noted that the openings of the driving range bays are pointed away from abutting dwellings.

David Hartnagel asked if the proposed snack bar will operate similarly to the existing Grille. Peter Brown responded that it would operate similarly and have a similar menu.

David Hartnagel asked if the function hall within the Clubhouse will continue to operate. Peter Brown confirmed that it will.

Andrew DeMore asked if there is an expected increase in usage of the driving range. Peter Brown responded that it is expected that patrons who will be using the golf course will be using the driving range; he noted that there may be an increase in usage because it is no longer across the street. He stated that the current driving range needs to close because of wet conditions, but the proposed driving range could operate with light precipitation.

Andrew Crosby asked if there will be an expected increase in the sales of alcohol. Peter Brown stated that there may be a few additional sales, but it is anticipated that it will be from patrons already at the site using the golf course. He provided an example of a group of four golfers who may stay around to have a drink after a round of golf instead of leaving after the round.

Andrew Crosby asked if the bar will be advertised as a standalone venue. Peter Brown responded that it will not.

Ernest Dodd stated that the liquor license at the site allows for the sales of alcohol between 8am and 1am. Denise Dembkoski, Town Administrator, added that is following State law. Peter Brown stated that there is no intention of operating that late into the night.

David Hartnagel asked if there is currently a bar at the Grille. Peter Brown stated that there is a counter where patrons can order food or beverages, but no bar seating. He stated that the proposed snack bar will have bar seating and table seating.

Andrew DeMore asked about the capacity of the driving range, noting that there could be multiple people at a driving range bay. Peter Brown responded that the number of patrons per hour has not been identified; he stated that the hours of operation for the driving range will need to be established prior to making this determination. He added that the capacity of the driving range will be established by the Building Inspector and Building Code.

David Hartnagel asked for more detail about the separation between the driving range bays. Peter Brown stated that there will be protective netting between the bays, with a stronger material towards the bottom.

Ernest Dodd asked if there will be measures taken to prevent people from falling off the elevated driving range bays. Peter Brown provided information about the safety measures that will be taken, such as having the driving range mats recessed from the edge of the bays.

David Hartnagel asked if there will be netting at the end of the range. Peter Brown stated that the end of the range will not have netting to allow wildlife to pass through without getting caught.

David Hartnagel asked if there are any questions or comments from Town Staff or representatives of other Town boards or committees. There were no comments or questions.

David Hartnagel opened the Public Hearing to public input. He acknowledged that the Board has received written correspondence already; he listed out the correspondence received.

David Hartnagel provided an overview of ground rules for public input.

Carol Lynn, 30 Orchard Drive, expressed concern about the lighting within the driving range creating sky glow which would have negative impacts on the native insect and bug populations. She expressed concern that using propane or natural gas for the heating is not environmentally friendly. Peter Brown stated that the existing driving range will be converted to wetlands, providing habitat for bugs, and that the heating system and interior lighting has not yet been decided.

Michael Duclos, 3 Birch Hill Road, expressed concern about the amount of energy the driving range will require for heating. He encouraged the Board to review the Green Advisory Committee's Climate Action Plan, and to ask the applicant how much energy is anticipated to be used.

Mary Brooke Delano, 27 October Lane, offered support for the proposal. She stated that she and her family moved to Stow for the golf community, and that she supports the economic development that the proposal will bring.

Janet Wheeler, 151 Wheeler Road, expressed concern that the Zoning Bylaws are not being enforced. She read off parts of Section 3.9 of the Zoning Bylaw. She asked that the Board apply Section 8.4 of the Zoning Bylaw (*Golf Course Uses in the Residential District subject to a Special Permit by the Planning Board*) to this application. She believes that Section 8.4 must apply to all golf courses. She expressed concern that the driving range and snack bar will become a standalone destination in Stow. She stated that she went to the Stow Acres to buy a hamburger on February 8, but the Grille was closed. She believes that creating a standalone destination is inappropriate for this location.

Peter Brown responded to Janet Wheeler's comments. He stated that Section 8.4 (*Golf Course Uses in the Residential District subject to a Special Permit by the Planning Board*) of the Zoning Bylaw does not apply to this permit. He stated that the Grille currently does not operate in Winter. He reminded the Board that the Special Permit is sought under Section 3.9 of the Zoning Bylaw. He stated the last Special Permit (Number 4) that Stow Acres received was sought under Section 3.9 in 2023.

Glen Bunnell, 82 Hudson Road, stated that he is a member of the Rediscover Mapledale group and has had a positive and neighborhood-focused relationship with Stow Acres. He believes that this relationship will continue based on previous actions.

Ed Deluca, 26 Crescent Street, asked if the application is seeking to make a nonconforming use more nonconforming. David Hartnagel stated that the Board will be deliberating this after the closure of the Public Hearing.

Alison Doucette, 30 Cross Street, asked why section 8.4.1.3 of the Zoning Bylaw (Hours of operation under *Golf Course Uses in the Residential District subject to a Special Permit by the Planning Board*) does not apply. She believes that not following Section 8.4 will create an unfair business advantage to Stow Acres. Ernest Dodd stated that Section 8.4 of the Zoning Bylaw does not apply because Stow Acres is a pre-existing nonconforming property. He stated that Section 8.4 applies to golf courses that are proposed after the adoption of that section. He stated that an application under Section 8.4 would be filed through the Planning Board.

Alison Doucette, 30 Cross Street, asked why the Board is creating a new Bylaw without Town Meeting approval. Michael Slagle responded that the Board is not creating a new Bylaw; the Board is reviewing an application for Special Permit. Alison Doucette stated that she would prefer businesses to be located in Town Center.

Kelly Lawlor, 170 Hudson Road, stated that she is a member of Rediscover Mapledale. She provided a brief history that Stow Acres was originally Mapledale, the first golf course to be owned and operated by a black person. She stated that she believes that Stow is a destination already, noting the golf courses and orchards in town. She stated that she sent out a petition to support the golf club, community, and businesses. She stated that Stow Acres has been a partner with Rediscover Mapledale, the historical society, and conservation efforts. She read off some points of the petition¹.

Morgan Hillman, 64 Crescent Street, stated that she supports longer hours of operation, for there are no activities for residents in Stow for after 8:30pm. She stated that she lives on a nonconforming property and would like this application to receive the same fair treatment. She added that she supports businesses that pay taxes as the Town has large capital projects.

Kathy Sferra, Conservation Director and resident at 74 West Acton Road, stated that she has worked on the overarching Stow Acres project (including the conservation restriction on the South Course, the partial Town purchase of the North Course, and the housing development proposed on the remaining portion of the North Course). She stated that a plan for 450 housing units was proposed on the South Course and quickly displayed the plan to the Board.² She stated that Special Permits are a tool for nonconforming uses to come before the Town for review. She stated that if the community does care about golf, there will need to be a way to

¹ The petition can be found in the correspondence.

² The Plan was not submitted to the Board.

allow the use to adapt and succeed. She reminded the Board that the golf course use of Stow Acres will be decreasing, going from 36 holes to 18 holes within the next 10 years.

Claudia Peters, 147 Boon Road, stated that she felt misinformed about the overarching Stow Acres project detailed at Town Meeting in 2021. She stated that she has not seen any function in the Clubhouse in December. She stated that she has witnessed cars going into the Stow Acres parking lot to do “inappropriate” things. She stated that she would not have purchased her house 37 years ago if she knew that the Bylaws would not be applied.

Michelle Alexander, 121 Randall Road, offered support for the application. She believes that there will not be a large shift in usage of the driving range. She supported that the driving range will be moved away from its existing location. She acknowledged that there is a restaurant and bar currently at the site. She appreciated the planning work that was done for both of Stow Acres’ courses.

Elizabeth Michaud, 570 Great Road, asked if the conservation restriction on the site is being followed. She expressed concern that future owners of Stow Acres may transform the proposed driving range and snack bar building into a wedding venue. Peter Brown stated that Stow Conservation Trust and the Stow Conservation Commission have found that the proposed building is consistent with the conservation restriction on the site.

Bennet Daley, 32 Cross Street, stated that he supports that the exterior lighting of the range has been removed. He stated that tailgating in the parking lot at night has created a noise disturbance. He asked the Board to consider taking reasonable action to mitigate the issue.

Janet Wheeler, 151 Wheeler Road, mentioned that she also had a petition that she submitted to the Board. She stated that unlike the other petition shared prior with the Board, she went door to door collecting signatures. She stated that the residents she spoke to are concerned about creating a standalone destination, particularly with the bar. She stated that climate change could allow for outdoor dining in winter.

Ed Deluca, 26 Crescent Street, believes that the glow sticks will not be visible to the patrons using the driving range because they will be in illuminated space. He stated that the sun does not set until after 8pm in summer months.

Janet Wheeler, 151 Wheeler Road, acknowledged that Section 8.4 (*Golf Course Uses in the Residential District subject to a Special Permit by the Planning Board*) of the Zoning Bylaw is under the purview of the Planning Board. She asked why the applicant is not going to the Planning Board. Ernest Dodd responded that the use is grandfathered (pre-existing nonconforming) and is protected under Massachusetts General Law; he noted that they apply to other golf courses in Stow.

Janet Wheeler, 151 Wheeler Road, asked why other golf courses are subject to Section 8.4. Ernest Dodd responded that the other golf courses were constructed after the adoption of Section 8.4.

Janet Wheeler, 151 Wheeler Road, stated the Board in 1989 followed Section 8.4 of the Zoning Bylaw. Ernest Dodd responded that the Special Permit was sought under Section 3.9 of the Zoning Bylaw. He stated that the current Board is making the decision, and the current Board does not need to follow what a previous Board decided.

Alison Doucette, 30 Cross Street, asked if businesses prior to the adoption of the Zoning Bylaw are exempt from its content. Ernest Dodd stated that pre-existing businesses are protected under Massachusetts General Law Chapter 40A Section 6.

Elizabeth Michaud, 570 Great Road, believes that the expansion of the number of seats at the Snack bar should not be allowed. Ernest Dodd responded that the change for a pre-existing use is under the discretion of the Board under Section 3.9 of the Zoning Bylaw.

Maria McFarland began speaking about pre-existing non-conforming properties.

Alison Doucette, 30 Cross Street, expressed frustration that she spent time reading sections of the Zoning Bylaw that she believed applied to this application. She asked how the public is supposed to know what laws apply. She stated that the public will be working with the Board for 4 years. David Hartnagel stated that the 4-year time period she is referring to is likely about the construction of the Residences at Stow Acres (a comprehensive permit application currently before the Board); he stated that the Board cannot discuss this.

Michael Slagle, in response to Alison Doucette's question, stated that he has sent out Public Hearing Notices that includes what section of the Zoning Bylaw the application is under.

Claudia Peters, 147 Boon Road, expressed concern about the proposed 235 seats at the snack bar. She asked the Board if it will consider the 235 seats an expansion. David Hartnagel responded that multiple factors will need to be applied before deciding.

Denise Dembkoski, Town Administrator, asked if Maria McFarland can continue what she was saying about pre-existing nonconforming properties. Maria McFarland quickly added that multiple factors needed to be considered when deciding about expansion of use, aligning with what David Hartnagel stated previously.

David Hartnagel asked for any final input.

Janet Wheeler, 151 Wheeler Road, asked the Board to consider the lighting of the driving range caused by the new lights and how it will encourage nighttime use of the driving range.

David Hartnagel asked about the number of seats currently in the Grille. Peter Brown estimated 108 total. David Hartnagel asked if there will be lighting on the patio for the snack bar. Peter Brown stated that there will be lights above the doors for safety. David Hartnagel asked to confirm that there will not be a roof over the patio. Peter Brown confirmed.

John Wendler, 22 Cross Street, asked how the timing between the Public Hearing Notice and the public hearing. Michael Slagle responded that the Public Hearing Notice was sent out approximately one month prior to the Public Hearing.

Alison Doucette, 30 Cross Street, stated that after receiving a Public Hearing Notice and attending meetings, she is frustrated that she spent time reviewing the wrong section of the Zoning Bylaw. She asked where these items are posted. Michael Slagle responded that the agenda has a website link to a webpage titled "Recent Applications" that has information about the application. David Hartnagel stated that he sees the information on the webpage for the application.

John Wendler, 22 Cross Street, asked when the application was filed under Section 8.4 (*Golf Course Uses in the Residential District subject to a Special Permit by the Planning Board*) of the Zoning Bylaw. Michael Slagle responded that there was not a filing under Section 8.4 for this site.

John Wendler, 22 Cross Street, asked when the application was filed under Section 3.9 of the Zoning Bylaw. Andrew DeMore stated that the application for this Public Hearing was filed under Section 3.9.

David Hartnagel closed the Public Hearing to public comment.

David Hartnagel asked Peter Brown if there is any additional information he would like to share with the Board. Peter Brown responded that he does not have any additional information.

The Board discussed whether to close the Public Hearing. The Board opted to keep the Public Hearing open.

Maria McFarland asked Kathy Sferra, Conservation Director, for clarification on the conservation restriction and town acquisition. Kathy Sferra state that the South Course of Stow Acres has a conservation restriction, and the Town purchased part of the North Course. Stow Acres will continue to operate 36 holes until January 2025; after, they will reduce to 27 holes and then 18 holes following the retained rights agreement.

Andrew Crosby stated that he finds the increase in the number of seats to be an intensification of the use of the site. He stated that the hours of operation for the uses should be considered to not have a detrimental impact on the neighborhood.

Ernest Dodd acknowledged that there are more seats but noted that it does not mean that the snack bar will always be at that capacity.

Andrew DeMore stated that the Board should consider security on the site if there are after hour activities in the parking lot at night. Peter Brown stated that a camera could be installed. He added that he has not heard from abutters that there is illegal activity at night in the parking lot.

Ernest Dodd stated that the glow sticks appear to have low lumens. Andrew DeMore asked what the purpose of the glow sticks is. Peter Brown responded that the glow sticks will act as targets.

Leonard Golder asked how many glow sticks are proposed. Peter Brown responded that there will be 5 at 50 yard increments.

Andrew DeMore asked if the sample glow stick will be the type used at the driving range. Peter Brown stated that he intends to use the sample glow stick on the course. He added that the specifications for the glow sticks can be provided to the Board.

Ernest Dodd asked if there will be other lights near the pathways on the site. Peter Brown stated that there will be lights aligning with the Building Code.

The Board discussed the hours of operation of the Grille. Ernest Dodd noted that there are no restrictions on the hours of operation for the Grille. David Hartnagel stated that restricting the hours of operation would be taking away a right that the property had.

The Board discussed the current capacity of the Grille and the proposed capacity of the snack bar. It was discussed that there could be rowdy people leaving the bar, but it was acknowledged that the Stow Police could offer help in a loud situation.

The Board acknowledged that there is a level of uncertainty to this decision. Leonard Golder suggested that the Special Permit could have a condition requiring it to be reviewed in a year.

The Board continued discussing the hours of operation.

David Hartnagel encouraged the Board to look at the application altogether instead of in separate pieces. He stated that there may be increases and decreases in parts of the application, but when viewed as a whole, it may be a net increase or decrease.

Andrew Crosby stated that he finds the hours of operation to be the critical factor of the application as it affects the neighborhood most. He stated that the condition for the hours of operation may mitigate the impacts on the neighborhood.

Ernest Dodd described factors of the application that benefit the existing business; he stated that he does not anticipate that these will cause a negative impact on the neighborhood.

The Board continued discussing the hours of operation in terms of the shifts of employees.

Andrew Crosby supported the idea for conditions including the review of the Special Permit. Ernest Dodd reminded the Board that it has the authority to review and modify any Special Permit it issues should a problem arise.

The Board discussed the security of the site. It was acknowledged that security cameras could be installed, but the Stow Police Department will need to be involved to stop any crime on the site.

The Board discussed closing the Hearing or continuing the Hearing to another date.

Andrew DeMore moved to close the Public Hearing for 58 Randall Road. The motion was seconded by Andrew Crosby and carried by a vote of five in favor (David Hartnagel, Andrew Crosby, Andrew DeMore, Ernest Dodd, and Leonard Golder).

The Board agreed to meet on April 3, 2024, to make a decision for 58 Randall Road.

Adjournment

Andrew DeMore moved to adjourn. The motion was seconded by Andrew Crosby and carried by a vote of four in favor (David Hartnagel, Andrew Crosby, Andrew DeMore, and Ernest Dodd).

Respectfully submitted,

Michael Slagle
Land Use Planner/GIS Administrator