



Town of Stow  
**PLANNING BOARD**

380 Great Road  
Stow, Massachusetts 01775-1122  
(508) 897-5098  
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**NOTICE OF DECISION and DECISION**

**Special Permit and Site Plan Approval  
108 and 118 Great Road  
Modification 3**

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**January 23, 2024**

**1. Petition**

This Document is the **DECISION** (hereinafter the Decision) of the Planning Board (hereinafter the Board) on a request to modify the existing Special Permit and Site Plan Approval submitted by JKC Properties, LLC, MAP Holdings, LLC, and Flint Road Realty, LLC (hereinafter the Petitioners), for the inclusion of accessory outdoor dining, the inclusion of a restaurant use, and the renovation of the existing structure at 108 Great Road, on property owned by JKC Properties, LLC.

This Decision is in response to a request to modify the existing Site Plan Approval and Special Permit submitted to the Board on November 2, 2023 (hereinafter the Petition), pursuant to Sections 3.3.5, 9.2 and 9.3 of the Stow Zoning Bylaw and the Rules and Regulations for Special Permit and Site Plan Approval (hereinafter the Rules).

**2. Applicant/Owner**

JKC Properties, LLC  
14 Nason Street, Suite 302  
Maynard, MA 01754

**Applicant**

MAP Holdings, LLC  
c/o Beveridge & Diamond  
155 Federal Street, Suite 1600  
Boston, MA 02110

**Applicant**

Flint Road Realty, LLC  
c/o Beveridge & Diamond  
155 Federal Street, Suite 1600  
Boston, MA 02110

**3. Location**

Said property is shown on the Stow Property Map Sheet R-29 as Parcels 86 and 87 (hereinafter the Site), as more fully described in the Petition.

#### 4. Board Action

After due consideration of the Petition, the record of proceedings, and based upon the findings set forth below, on January 23, 2024, by a vote of five (5) members present throughout the proceedings, the Board voted to **APPROVE** the request for Site Plan Approval, and by a vote of five members present throughout the proceedings, **GRANT** the Modification 3 of the Special Permit, including the provision of restaurant uses and accessory outdoor dining, in accordance with the Findings, Plan Modifications and Conditions contained herein.

#### 5. Proceedings

The Petition for Modification of the Special Permit and Site Plan Approval was received by the Board on November 2, 2023 pursuant to MGL Ch. 40A and Section 9.2 and 9.3 of the Town of Stow Zoning Bylaws (hereinafter the Bylaw). The Board considered the Request and reviewed the Application at a Public Hearing held on December 12, 2023 and closed at the conclusion of that session. Notice of the hearing was duly published and sent to all parties in interest in accordance with MGL Chapter 40A.

Board Members Lori Clark, Karen Kelleher, John Colonna-Romano, Margaret Costello and Nancy Arsenault were present throughout the proceedings. The record of the proceedings and submissions, upon which this Decision is based, may be referred to in the Office of the Town Clerk or the Office of the Planning Board.

#### 6. Exhibits

Submitted for the Board's deliberation were the following exhibits:

6.1 Documents Required by the Rules, consisting of the following:

EXHIBIT 1 Application, received November 2, 2023

- Petition for Special Permit and Special Permit Amendment
- Application for Site Plan Approval and Site Plan Approval Amendment
- Development Impact Statement
- Limited Traffic Study
- Draft Legal Notices
- Assessor's Certified List of Abutters
- Filing Fee
- Manager's Certificates for MAP Holdings, LLC and Flint Road Realty, LLC
- Officer's Certificate for JKC Properties, LLC
- Stormwater Report and Operations & Maintenance Plan
- Plans entitled "Site Plan 108-118 Great Road, Stow Massachusetts" prepared by Stamski and McNary, Inc. for JKC Properties, LLC, dated July 30, 2019 and last revised November 2, 2023
  - Sheet 1: Cover Sheet
  - Sheet 2: Site Development Plan
  - Sheet 3: Layout Plan
  - Sheet 4: Construction Details Plan
  - Sheet 5: Stormwater Pollution Prevention Plan
- Architectural Plans prepared by James D. Smith, Architects
  - Sheet A-1.0: Proposed First Floor Plan, dated October 28, 2023
  - Sheet A-2.0: Proposed 2<sup>nd</sup> & 3<sup>rd</sup> Floor Plans, dated September 26, 2023
  - Sheet A-3.0: Proposed Elevations, dated October 28, 2023
  - Sheet A-4.0: Proposed Elevations, dated October 28, 2023

EXHIBIT 2 Supplemental Materials, received November 22, 2023

- Cover Letter
- Memorandum in Support of the Application, prepared by Beveridge & Diamond
- Revised “Limited Traffic Study,” dated November 2, 2023 and revised November 14, 2023, prepared by Stamski and McNary, Inc.
- Plan Sheet entitled “Site Plan 108-118 Great Road, Stow Massachusetts” prepared by Stamski and McNary, Inc. for JKC Properties, LLC, dated July 30, 2019 and last revised November 20, 2023
  - Sheet 3: Layout Plan “Progress Print Date: 11/20/23”
- Architectural Plans prepared by James D. Smith, Architects
  - Sheet A-1.0: Proposed First Floor Plan, dated November 14, 2023
  - Sheet A-2.0: Proposed 2<sup>nd</sup> & 3<sup>rd</sup> Floor Plans, dated November 14, 2023
  - Sheet A-3.0: Proposed Elevations, dated November 14, 2023
  - Sheet A-4.0: Proposed Elevations, dated November 14, 2023

EXHIBIT 3 Supplemental Materials, received November 29, 2023

- Cover Letter
- Photometric Plan entitled “108 Great Rd. Site Lighting Plan v2” prepared by Devid J Hammel LC. and dated November 22, 2023, Page M of 1

EXHIBIT 4 Supplemental Materials, received December 7, 2023

- Lighting Specification Sheets:
  - Jademar Lighting, JD-SB Series; Luminaire
  - Jademar Lighting, JWP-FC-CPS Series; Full Cut-off LED Wall Pack
  - Jademar Lighting, JWP-NCS-CPS Series; Non-cutoff small wall mount
  - Light Pole Detail, entitled “Round Straight Steel Anchor Base 20’ x 4.0” x 11 GA, undated, unattributed

6.2 Comments received from Town Staff, Boards and Committees:

- a) Email Correspondence from Stow Treasurer/ Collector, dated November 17, 2023

Exhibits 6.1 and 6.2 are referred to herein as the Plan.

## 7. Findings and Conclusions

Based upon its review of the Exhibits and the record of the proceedings, the Board finds and concludes the following:

- 7.1 **Finding:** The Petitioner seeks modification of the Special Permit and Site Plan Approvals as approved on March 26, 2020, November 17, 2020, and December 13, 2022. The Petitioner seeks Special Permit and Site Plan Approval in order to retain and renovate the existing 2 ½ story structure at 108 Great Road to accommodate one tenant space for a 3,408 square foot, 58 seat Dunkin’ and the construction of a covered front porch for accessory seasonal outdoor dining. Restaurant seating and associated equipment is proposed to be located on the first floor, with the remaining floors used as storage and/or office space. The Plan further proposes upgrades to the existing site plan at 108 and 118 Great Road through reconfiguration of parking spaces, elimination of excess pavement, as well as the addition of an underground stormwater infiltration system and site lighting and landscaping.

7.2 **Finding:** The proposed use is located in the Lower Village Business District and Residential District.

**Finding:** The proposed use, as conditioned herein, is allowed by Special Permit and Site Plan Approval in accordance with the Lower Village Business District - Section 3.3.5 of the Zoning Bylaw.

7.3 **Finding:** The Board reviewed and considered the Petition, as submitted, and finds the Petition and supporting documentation as adequate for the type of Special Permit applied for.

**Finding:** The Board finds that, as conditioned herein, the Petition complies with the mandatory findings as detailed in Section 9.2.6 of the Bylaw.

7.4 **Finding:** The Board reviewed and considered the Petition, as submitted, and finds the Petition and supporting documentation as adequate for Site Plan Approval.

**Finding:** The Board finds that, as conditioned herein, the Petition complies with Site Plan Design Criteria as detailed in Section 9.3.11 of the Bylaw.

**Condition:** In accordance with Section 9.3.14 of the Zoning Bylaw, an as-built plan shall be provided prior to the issuance of an Occupancy Permit.

#### **Site Characteristics**

7.5 **Finding:** Parcels 86 and 87, known as 108 and 118 Great Road, are referred to as the Site, held in common ownership by JKC Properties, LLC and totaling 2.51 acres. The Site has a combined total frontage of +/-355 feet. Parcels within the Lower Village Business District are exempt from the provisions of Section 4.4, Table of Dimensional Requirements.

**Finding:** The Parcels, held in common ownership, are interlinked and dependent on the infrastructure that each offers to the other, including shared parking facilities, a shared septic system and public water supply, as well as an interlinked stormwater management system.

#### *Outdoor Dining at 118 Great Road*

7.6 **Finding:** The Planning Board finds that Stow Café, located within 118 Great Road, has provided tables and seating for accessory outdoor dining service.

**Finding:** The Planning Board finds that outdoor dining is allowed only through a Special Permit in accordance with Section 3.3.5.3 (a) (iii) of the Bylaw.

**Condition:** Tables and seating for accessory outdoor dining service shall be removed and/or not replaced until a decision is reached on an application for Site Plan Approval in accordance with Section 3.3.5.3 (a) (iii) of the Bylaw.

#### *Stormwater Management and Drainage*

7.7 **Finding:** The Application does not include a waiver request from the requirement to provide stormwater management and drainage calculations. However, the Application

indicates that a decrease in impervious surfaces and a decrease in rate and runoff leaving the site is achieved through the proposed system.

**Finding:** The Plan shows stormwater to be managed through the use of two existing leaching catchbasins and one existing catchbasin, each along the boundary between 108 and 118 Great Road. The catchbasins, and associated roof drains from both buildings, will accept stormwater from both parcels, and direct runoff to a proposed subsurface infiltration system below the paved parking area at the western end of 108 Great Road. The Application indicates that the use of subsurface chambers will mitigate the existing ponding issues at the site during large rain events.

**Finding:** The Application includes a “Limited Stormwater Report,” including calculations showing adequate stormwater storage to meet the 10 year storm event – an improvement over current conditions.

**Finding:** The Application includes test hole data, proving sufficient offsets to groundwater for the proposed system to function as designed.

**Waiver:** The Planning Board finds that due to the existing conditions at the site, the Stormwater Report is sufficient to show that the proposed stormwater system is appropriate for the development proposed. The Board further finds that there will be no increase in the rate and volume of runoff from the site. Therefore, the Board **GRANTS** a waiver from Section 4.13 of the Rules to provide stormwater management and drainage calculations.

7.8 **Finding:** The Petition includes a Stormwater Pollution Prevention Plan detailing the use of erosion controls on site.

**Condition:** Erosion Control and sedimentation measures shall be incorporated around the building construction and any areas of excavation, as shown on the Plans.

**Condition:** The drainage report and final plans shall be stamped with the seal of Registered Professional Engineer.

#### *Shared Infrastructure*

7.9 **Finding:** The Board finds the Operations and Maintenance Plan for the proposed stormwater system should be oriented to a layperson and should describe how to determine proper functionality of the chambered system, as well as to determine if and when remediation is necessary.

**Finding:** The Petition indicates the intent to divide ownership between 108 Great Road and 118 Great Road.

**Condition:** Prior to issuance of an Occupancy Permit, an Operations and Maintenance Plan oriented to a layperson shall be submitted for the Board’s review and approval with information adequate to determine proper functionality, remediation and annual maintenance of the proposed shared stormwater system, including maintenance during construction. The Operations and Maintenance Plan shall bind the Petitioners and all subsequent owners.

**Condition:** Prior to issuance of an Occupancy Permit, the Petitioners shall prepare and execute a Condominium Master Deed to govern the coordinated use, repair, and maintenance of the parking areas, facilities, and infrastructure to be shared by 108 Great Road and 118 Great Road. The Petitioners shall provide a copy of the Condominium Master Deed, and any updates to the same, to the Planning Department.

#### *Drinking Water and Wastewater Infrastructure*

7.10 **Finding:** The Plans show an existing Title V compliant septic system and pump chamber spanning the boundary of 108 and 118 Great Road immediately east of the existing building at 118 Great Road. An associated leaching field, located outside of the developments Interim Wellhead Protection Area, to the rear of the 118 Great Road plaza, was approved on 12.12.2018 and subsequently constructed. The design flow of the approved wastewater system is rated for 4270 gallons per day.

**Finding:** The Plan shows the location of the existing Public Water Supply well #2286004. Included in the Petitioner's previous petitions are plans indicating the well's associated Department of Environmental Protection (DEP) Zone 1 radius of 136' feet, as well as the Interim Wellhead Protection Area radius of 439' feet.

**Finding:** Correspondence previously received from the Board of Health indicates multiple findings of Public Water Supply non-compliance with DEP Public Drinking Water Supply standards.

**Condition:** Public Water Supply infrastructure shall be approved by DEP or the Board of Health as necessary. Planning Board approval of this Decision shall not be deemed approval by DEP or the Board of Health.

#### *Fire Safety Measures*

7.11 **Finding:** The original Special Permit included the following findings related to fire safety measures:

- The Stow Fire Chief indicated his discussions with the Petitioner regarding the installation of a possible cistern at the site, given the closest designated water sources for fire-fighting include the cistern at Meeting House at Stow, a pond located behind the Stow Shopping Plaza at 117 Great Road, the cul-de-sac at Heritage Lane, and a Maynard hydrant at the Stow Town line, all of which are considerable distance to the subject parcels.
- During the Public Hearing the Petitioner indicated he would consider the use of a cistern at the site but would need to finalize the construction plans prior to understanding the site limitations.
- The Planning Board recognizes the fire safety benefits that a cistern in Lower Village would provide. Although other properties would benefit from a cistern installation the Planning Board finds that requiring the cistern would place an undue burden on one property owner.
- The Planning Board finds that it would be advantageous for the Town to work with property owners in the Lower Village to find space for a cistern that could be used collectively among the properties.

### *Trail Access to Abutting Open Space*

- 7.12 **Finding:** The Stow Conservation Commission previously indicated that the property at 118 Great Road borders upon the Stow Town Forest and that with the number of entrances already managed by the Conservation Commission, the Commission does not recommend access to Town Forest or the Heritage Lane Open Space from 118 Great Road.

**Finding:** The Planning Board finds that no trail access is proposed in the Application.

**Condition:** Trail access shall not be proposed or created at either 108 or 118 Great Road without prior approval from the Planning Board, with input from the Conservation Commission.

### **Architectural Design Standards**

- 7.13 **Finding:** The Plans include architectural elevations and layouts of the proposed renovation of the structure at 108 Great Road, which dates to 1895.

**Finding:** The Planning Board finds that the exterior architectural elevations appear to be aligned with New England vernacular architectural traditions in accordance with Sections 3.3.5.6 through 3.3.5.9 of the Bylaw and fits in with the rural, historic character of Stow. Further, the addition of a front porch, the massing of the building, the maintenance of the chimney, and the pattern of doors and windows is designed to invite pedestrian use and provide visual interest.

**Finding:** During the Public Hearing, the Petitioner stated that the structure at 108 Great Road would include wooden clapboard siding, rather than vinyl siding, and would be painted white in color.

**Condition:** Prior to issuance of a Building Permit, the architectural plans will be updated to note the final condition of the façades of the structure at 108 Great Road, including the paint color and wood siding.

**Condition:** In the event that the building elevations and architectural renderings are changed in a manner that alters the proposed roofline, porch features, entrance locations or contains changes that would otherwise alter the building's conformity to the New England vernacular architectural style, such plans and elevations shall be submitted to the Planning Board for review and approval.

**Condition:** The proposed Building shall meet all applicable building code and Americans with Disabilities Act Architectural Access Board requirements.

- 7.14 **Finding:** The Petitioner stated in the Public Hearing that safety modifications need to be made to the architectural plans in order to include an exterior set of stairs to provide emergency access to the second floor.

**Condition:** The exterior set of stairs shall not detract from the New England vernacular architectural style of the building.

**Plan Modification:** Prior to issuance of a Building Permit, the final architectural plans shall be modified to include an exterior set of stairs to provide a second egress for the second floor in the case of an emergency.

- 7.15 **Finding:** Neither the architectural plan set received November 2, 2023 or November 22, 2023 include proper dates of revision.

**Plan Modification:** Prior to issuance of a Building Permit, the final architectural renderings shall be revised to include revision dates so that the relationship of these plans will be understood into the future.

- 7.16 **Finding:** A note on Sheet A-1.0 of the architectural plans states that there are 10 seats provided.

**Plan Modification:** Prior to issuance of a Building Permit, a note on Sheet A-1.0 of the architectural plans shall be revised to state there will be up to 58 seats provided, rather than 10, unless otherwise indicated by DEP.

- 7.17 **Finding:** The architectural plan set does not display the seal of a Registered Professional Architect or by a Registered Professional Engineer.

**Plan Modification:** Prior to issuance of a Building Permit, the final architectural plan set shall display the seal of a Registered Professional Architect or by a Registered Professional Engineer certified to practice in the Commonwealth of Massachusetts, in accordance with the Rules.

## **Sign Design Standards**

### *Lighting*

- 7.18 **Finding:** The application proposes the addition of three signs: a primary freestanding pylon sign, an on-site façade sign, and one window sign.

**Finding:** The primary freestanding pylon sign, on-site façade sign, and window sign are each proposed to be internally illuminated. The Bylaw does not include a provision for internally illuminated freestanding or façade signs.

**Condition:** All sign lighting practices shall comply with Section 6.3 of the Bylaw. Only continuous white lights shall be used for illumination of a SIGN. The illumination for any SIGN shall be shielded, directed and maintained so as to cast no direct beam up into the sky, on a public or private way, pedestrian way, or adjacent property, and shall be of sufficiently low intensity that it shall not cause a glare or reflection that may constitute a traffic hazard or a nuisance.

**Condition:** SIGNS shall not be illuminated between 9:00 p.m. and 5:00 a.m., except during business hours.

**Condition:** SIGNS, which are oscillating, internally illuminated, flashing or operating with moving parts are not permitted, except for internally illuminated window signs as allowed in Section 6.3.3.2 (3) of the Zoning Bylaw.



**Condition:** Each PERMANENT SIGN shall display its permit number at a location readily visible to the inspector.

- 7.19 **Finding:** The Special Permit Modification #1, dated October 27, 2020, considered the Petitioner's request for recognition of the pre-existing non-conforming status of internally lit signage at 118 Great Road.

**Finding:** Condition 7.4 in the original Special Permit states that "Non-conforming, internally lit signage at 118 Great Road shall be removed."

**Finding:** The Petitioner indicated that the internally lit signage at the Bank of America ATM site at 118 Great Road was installed prior to the Zoning Bylaw amendment prohibiting internally lit signage.

**Finding:** During the Public Hearing on December 12, 2023, the owner stated that Bank of America is in the process of replacing the non-compliant sign.

**Finding:** The Planning Board finds that the 118 Great Road ATM is a pre-existing non-conforming internally lit sign. The Zoning Bylaw was amended at the 1985 Annual Town Meeting to make several changes to the sign bylaw, including adding the prohibition on internally lit signage. The Building Inspector's submission of a Sign Permit dated 2.15.1982, describes the internally illuminated retail bank sign predating the 1985 zoning bylaw change.

**Condition:** With the exception of the pre-existing/non-conforming retail bank sign at the ATM at 118 Great Road, all non-conforming, internally lit signage at 118 Great Road shall be removed.

- 7.20 **Finding:** In October 2020, the Petitioner stated that Bank of America will be replacing all signage within a three-year timeframe at their Massachusetts locations. Based on the anticipated lease renewal, the Planning Board previously agreed to a three-year timeframe for replacement of noncompliant signage.

**Condition:** The Petitioners shall require all pre-existing, non-conforming signage at 118 Great Road to be updated to conform to the current Zoning Bylaw standards upon replacement within three months of January 23, 2024.

### *Dimensions*

- 7.21 **Finding:** The Board finds that the intent of the Lower Village Business District is to create pedestrian oriented and scaled signage and seeks signage that does not visually obscure architectural elements of the building itself. Further, signage should complement the New England vernacular architectural style in materials or embellishments.

**Finding:** The Bylaw states that the maximum dimension of a primary freestanding sign is not to exceed twenty (20) square feet in area. The dimension of the proposed freestanding sign is just under that maximum.

**Finding:** Section 3.3.5.10 (a) of the Zoning Bylaw states that "signs along a pedestrian oriented streetscape should be scaled to the pedestrian, potentially in the form of a

hanging sign above the business establishment or other options that include texture or architectural components that can encourage pedestrian traffic”.

**Finding:** The Board finds that the proposed freestanding sign is not in keeping with New England vernacular architectural style.

**Finding:** During the Public Hearing, the Petitioners vocalized their flexibility with the design of signage and experience with altering signage to suit the context of the surrounding environs.

**Finding:** The Board strongly recommends that the Petitioner consult the results of the Sign Visual Preference survey, which indicates the most preferred design attributes of Stow residents,

**Finding:** The Board finds the Architectural Plans indicate the elevation of the pylon sign to be the “maximum height allowed per code”.

**Finding:** The Building Commissioner has indicated there is no maximum height for signage in the Zoning Bylaws.

**Condition:** Prior to issuance of a building permit, the architectural plans shall be revised to indicate the height of all proposed signage.

**Condition:** Prior to issuance of a Building Permit, the Planning Board shall review and approve the location and design of any proposed signage prior to installation. Proposed signage shall conform to the requirements of Section 3.3.5.10 and 6.3 of the Zoning Bylaw and to the Visual Preference Survey results as practicable, available through the Planning Department.

7.23 **Finding:** The Board finds that the dimensions of the on-site façade sign are in compliance with Section 6.3.3.2 of the Bylaw.

7.24 **Finding:** The Board finds that the proposed window sign is 3.14 square feet in size and is an image of a coffee cup. Section 3.3.5.10 (f) of the Bylaw states that corporate logos and graphics should be incorporated into sign design, rather than become the sign itself.

**Finding:** During the Public Hearing, the Petitioner stated the image of a coffee cup is not a corporate logo.

**Finding:** The Planning Board finds that Section 6.3 of the Bylaw allows a single internally illuminated window sign not exceeding three (3) square feet per establishment.

**Condition:** If the window sign continues to be proposed as internally illuminated, it shall meet the dimensional requirements of Section 6.3.3.2 and will be the sole internally illuminated sign at the structure at 108 Great Road.

**Plan Modification:** Prior to the issuance of a Building Permit, the architectural plans shall be revised to indicate the proposed internally illuminated window sign shall not exceed three (3) square feet, if still proposed as internally illuminated.

7.25 **Finding:** Section 4.7.3.4 – Site Improvements of the Special Permit Rules requires the Plans to show the location of all existing and proposed signage for the uses at the site.

**Plan Modification:** Prior to issuance of a Building Permit, the location of all existing and proposed signage shall be included on the plans, including their dimensions.

### **Exterior Lighting Standards**

7.26 **Finding:** Section 4.9.8 of the Special Permit Rules requires the location of any existing or proposed outdoor lighting facilities to be shown on the Plan. The Petitioner has provided a separate photometric plan detailing the specifications and proposed location for exterior lighting proposed at 108 Great Road.

**Finding:** Section 3.8.1.5 of the Zoning Bylaw requires that no lighting shine on a Street or abutting property in a manner that creates a nuisance or hazard.

**Condition:** All proposed exterior lighting fixtures shall conform to the Fixture Specific Conditions in Section 3.8.1.5.6 of the Zoning Bylaw.

**Finding:** The Board finds that the absence of parking lot lighting may create safety concerns on site.

**Condition:** Parking lot lighting shall be reduced to the extent practicable for safety concerns, from 10:00 p.m. until the earliest arrival of employees to open the business in the morning. The Petitioners shall consider the inclusion of motion sensor lighting and/or timers in the parking areas.

### **Building Siting and Orientation**

7.27 **Finding:** The Planning Board finds that the proposal is in compliance with Section 3.3.5.12 (a -j) of the Bylaw.

**Finding:** 108 and 118 Great Road contain a variety of existing and proposed uses that are likely to change over time. In the event that such changes trigger a Special Permit from the Zoning Board of Appeals under Section 7.2.3.1 (Parking Regulations), the Planning Board recommends consideration of proposing a shared parking agreement with abutting property owners, as applicable in order to facilitate inter-lot connections. A shared parking agreement could be submitted to the Board of Appeals as part of any Special Permit request to address issues such as the maintenance, striping, and snow plowing of the shared parking area.

### *Utilities*

7.28 **Finding:** Section 4.7.7 (d) of the Special Permit Rules requires the location and type of all utilities to be shown on the Plan and that such utilities, including electric and gas, “shall be located underground.” Section 9.3.11.8 of the Bylaw states that utilities shall be underground unless authorized by the Site Plan Approval Granting Authority.

**Finding:** An existing lightpole, servicing 108 Great Road and the abutting property at 92 Great Road, is located along the eastern property line.

**Finding:** During the Public Hearing, the Petitioner requested that existing overhead utilities remain due to the preexisting nature of the site and the likely cost prohibitive nature of placing the wires underground.

**Finding:** The proposed Plans indicate three lightpoles to be added to the west of the existing structure at 108 Great Road.

**Finding:** The Planning Board finds it desirable to locate utilities underground.

**Finding:** In the event of the future redevelopment of either 108 or 118 Great Road, the applicant shall confer with utility providers and, based on information provided or otherwise obtained, give the Board an assessment of the cost and feasibility of installing underground utilities at the property.

**Plan Modification:** Prior to issuance of a Building Permit, the Plan shall be modified and approved by the Board, showing the location of utilities serving 108 Great Road, including but not limited to proposed riser poles, overhead wire locations and electrical transformers.

#### *Dumpster Location*

7.29 **Finding:** The Plan indicates the location of a dumpster to service 108 Great Road at the southeastern corner of the parcel and placed on a concrete pad and screened with a fence on all sides.

**Finding:** The location of the dumpster to service 118 Great Road is absent from the revised Plans.

**Finding:** During the Public Hearing an abutter voiced concern around the lack of screening of dumpsters and trash receptacles at the Site.

**Condition:** All dumpsters and trash receptacles at the Site, inclusive of 108 and 118 Great Road, shall have fenced screening directly around them and the screening shall be perpetually maintained.

**Plan Modification:** Prior to endorsement, the Plan shall be revised to include the location and proper screening of all dumpsters.

#### *Dimensional Requirements, Setbacks, and Buffers to Abutting Districts and Residential Uses*

7.30 **Finding:** The Board finds that with the addition of a front porch, 108 Great Road is in compliance with the maximum front yard setback in the Lower Village Business District. Further, the Board finds that parking areas provided are to the sides and rear of the building while allowing for convenient pedestrian access from the sidewalk along Route 117 and from the parking areas.

7.31 **Finding:** 108 Great Road does not abut other zoning districts however the parcel does abut 84 Great Road, Assessor's Map R-29 Parcel 85A, which includes a residential use to the far eastern side of the parcel. Given the location of the abutting residence, the Board finds that a landscaped buffer is required at the southeastern corner of the 108 Great Road parcel.

**Finding:** In accordance with Section 3.3.5.17 (b) of the Bylaw, the Board may reduce the buffer requirement to no fewer than thirty (30) feet if sufficient protections and/or benefits are provided and where strict conformance would derogate from the intent of the design standards.

**Finding:** The proposal includes a 30-to-55-foot variable width landscaped buffer at the southeastern corner of the parcel in addition to a stockade fence along the rear property line. Further, the southeastern corner includes areas of pavement removal and the planting of two white oaks to add further visual barrier.

**Finding:** The Board finds the proposal provides adequate landscaping and visual barriers in the southeastern corner of the parcel.

**Condition:** The Owner of 108 Great Road shall perpetually maintain the proposed landscaped buffer along the southeastern corner of Parcel 86.

7.32 **Finding:** The southern portion of 118 Great Road abuts the Residential and Recreation-Conservation Districts.

**Finding:** The proposal includes a variable width landscaped buffer along the parking area to the rear of 118 Great Road, providing at least 30 feet of landscaped buffer from the parcel boundaries.

**Condition:** The Owner of 118 Great Road shall perpetually maintain a landscaped buffer along the perimeter of the rear lot lines of Parcel 87 in accordance with Sections 3.3.5.17 and 7.7.4.1 of the Zoning Bylaws, as the lot is adjacent to a Residential District and a Recreation-Conservation District.

### **Functional Open Space**

7.33 **Finding:** Section 3.3.5.24 of the Bylaw requires that developments needing a Special Permit and/or Site Plan Approval include at a minimum, five percent (5%) of the lot area as functional open space, excluding areas such as landscaped buffers.

**Finding:** The proposal indicates that 5.5% of the lot area is provided as functional open space. The proposal provides additional landscaping around the structure at 108 Great Road in addition to providing a contiguous streetscape environment with the inclusion of a walkway from the existing sidewalk along Route 117 with additional plantings.

**Finding:** The Board finds that the proposed walkways along the building façade are less than ten (10) feet wide and further that the narrower walkway allows for the addition of further landscaping and functional open space to offer an improved design.

**Condition:** All interior walkways and sidewalks, excluding proposed staircases, shall meet the minimum requirements of the Massachusetts Architectural Access Board (MAAB). Any planters, trash receptacles, or sandwich board signs placed on the walkways shall leave a pathway of at least four (4) feet wide that is free of obstructions.

- 7.34 **Finding:** The proposal includes limited bicycle facilities, with a total of four (4) bicycle parking spaces. Two (2) are proposed at 108 Great Road and two (2) are proposed at 118 Great Road.

**Finding:** The Planning Board finds that the Lower Village Traffic Improvements as well as the proximity of the Assabet River Rail Trail offer businesses in Lower Village improved bicycle accessibility. The Planning Board finds that businesses should provide appropriate facilities to accommodate that accessibility. In accordance with Section 3.3.5.24 (c ), the Board may require further amenities to be included within functional open space to encourage interaction and activity.

**Finding:** The Planning Board finds that the proposed bicycle facilities are insufficient due to their placement and number.

**Condition:** Prior to the issuance of an Occupancy Permit, two (2) bicycle racks, providing parking for eight (8) bicycles, shall be installed at the Site, with one rack adjacent to the structure at 108 Great Road and the structure at 118 Great Road.

**Plan Modification:** Prior to endorsement of the Plans, the Plan shall be modified to show a total of eight (8) bicycle parking spaces, with four (4) located adjacent to the structure at 108 Great Road and four (4) located adjacent to the structure at 118 Great Road.

## Site Circulation

- 7.35 **Finding:** The Plan shows the continued use of three separate curbcuts, two entering onto 108 Great Road and one onto 118 Great Road. Each curbcut conforms to the widths and geometries developed and constructed as part of the 2018 Lower Village Traffic Improvement Project by the Town.

**Condition:** Any additional curbcuts, including alterations and/or reconfigurations of existing curbcuts shall be submitted to the Board for review and approval and require further Modification of the Special Permit.

- 7.36 **Finding:** Currently, the largest fire apparatus that could be used to respond to emergencies at the Site through Mutual Aid is a 3 axle, 40.7' foot long firetruck.

**Condition:** Emergency apparatus shall be able to adequately enter and exit the site from each of the three curbcuts.

- 7.37 **Finding:** In response to the August 30, 2019 Petition, the Police Department submitted correspondence recommending consideration of identifying each of the 108 Great Road curb cuts as entrance only and exit only, with a Do-Not-Enter sign posted at the chosen exit.

**Finding:** The Town's Lower Village Traffic Improvements were designed to accommodate two-way traffic at each of the curbcuts along Route 117.

**Condition:** Two-way traffic shall be maintained at each curbcut, consistent with the design of the Lower Village Traffic Improvements. The Planning Board reserves the right to modify the Special Permit in accordance with Section 7.53 of this Decision in the event

that future communications with Public Safety and Highway Departments find that a one-way circulation pattern may increase vehicular safety.

- 7.38 **Finding:** In response to the August 30, 2019 Petition, the Fire Department indicated that the narrow, pre-existing access lane to the west of the building at 118 Great Road is not wide enough to provide meaningful circulation around the building for emergency apparatus and therefore need not be included in the Fire Department's analysis of site circulation. The access drive is not a viable connection to the rear parking area and unwitting drivers may attempt to use the access and be forced to back their vehicles out if blocked.

**Finding:** The Plan has since been modified to indicate an existing "Do Not Enter" sign by the southwesterly corner of the building and a proposed "Do Not Block Drive" sign by the northwesterly corner of the building.

**Finding:** The Board finds that the previously proposed "Do Not Enter" sign by the northwesterly corner of the building at 118 Great Road is needed to restrict vehicular access to the access lane.

**Condition:** Prior to issuance of a Certificate of Occupancy, a "Do Not Enter" sign at the northwesterly corner of the building at 118 Great Road must be properly installed in order to restrict vehicular access to the pre-existing access lane.

- 7.39 **Finding:** The Proposal maintains traffic circulation around the structure at 108 Great Road to allow for trucks to make deliveries and to connect parking areas on the west and east of the building.

**Finding:** The lane providing vehicular access around the structure does not include lane striping or signage indicating two-way traffic.

**Condition:** Prior to issuance of an Occupancy Permit, two-way vehicular access to the rear of the structure at 108 Great Road, which links the adjacent west and east parking areas, shall be indicated through the use of lane striping, signage, or another means acceptable to the Board.

**Plan Modification:** Prior to endorsement of the Plans, the method of indicating two-way vehicular access shall be included on the Plans and submitted to the Board for their review and approval.

## **Parking**

- 7.40 **Finding:** The Planning Board finds that the Petition proposes eighty-six (86) total parking spaces at the Site. Thirty-four (34) spaces are proposed at 108 Great Road and fifty-four (54) spaces at 118 Great Road.

**Finding:** The Board finds that the Petition calculates the required parking spaces as 1 per 250 square feet of gross leasable area.

**Finding:** The Board finds that square footage of the existing structures is misstated within the Application. The Board further finds the Site Plans provide the gross leasable area for both 108 and 118 Great Road to be used in calculating parking spaces.

**7.41 Finding:** The Petitioners indicated the required number of parking spaces for Parcel 86 and 87 combined is fifty-seven (57) parking spaces, as based on schedule of parking for shopping centers, in accordance with Section 7.3.3 of the Zoning Bylaw.

**Finding:** The Board finds that the Application considers Parcels 86 and 87 as the Site and therefore finds it appropriate to use the schedule of parking for shopping centers, in accordance with Section 7.3.3 of the Zoning Bylaw.

**Finding:** Section 3.3.5.28(c) of the Bylaw states the Planning Board may permit reductions or increases to the requirements of the Schedule of Parking.

**Finding:** At the Public Hearing, the Applicant's engineer stated that 89% of the trips generated by the use are anticipated to be from vehicles already utilizing Route 117, providing fewer daily and peak hour trips than that typically of a restaurant use.

**Finding:** The Board finds that the provision of eighty-six (86) parking spaces is appropriate given the shared nature of the parking area, siting of parking areas behind the existing buildings, multiple types of uses present at the Site, and the previous use of 108 Great Road as a restaurant space.

#### **Interior and Perimeter Landscaping for Parking Areas**

**7.42 Finding:** The initial development of 108 and 118 Great Road was constructed prior to the 2003 amendment to Section 7.7.4, 7.7.5 and 7.7.6 of the Bylaw and therefore does not comply with the current Zoning Bylaw governing perimeter and interior landscaping requirements.

**7.43 Finding:** Section 7.7.4 of the Zoning Bylaw requires perimeter landscaping at all "parking areas with more than five spaces and all loading areas shall be bordered on all sides with a minimum of ten foot wide buffer strip..."

**Finding:** The Plan shows the removal of excess pavement at the site, focused primarily on the rear portions of the 108 and 118 Great Road parcels.

**Finding:** The Board finds that there are pre-existing conditions at 118 Great Road that do not comply with Section 7.7.4 of the Zoning Bylaw, such as the shared infrastructure and excess parking spaces. Given the pre-existing nature of the site and the fact that the Application proposes no changes to these parking areas, the Board finds the interior and perimeter landscaping acceptable, as conditioned in this Special Permit.

**Finding:** In the event that future renovation or redevelopment of 108 Great Road or 118 Great Road is proposed, it shall comply with Section 7.7.4 of the Zoning Bylaw.

#### **Addition of Street Trees**

**7.44 Finding:** During the Public Hearing it was noted that an area of pavement immediately west of the primary entrance to 108 Great Road is proposed to be left as pavement and striped for parking, however this area was shown on the December 14, 2020 Plan to be loamed and seeded and reserved for the installation of a 2 – 2.5 inch caliper Red Oak.



**Finding:** During the Public Hearing it was noted that the proposed snow storage area to the far northwest corner of the 118 Great Road parcel had formerly contained a mature street tree that was found to be in declining health at the start of the Lower Village Streetscape Improvements and eventually removed. The Planning Board finds this location to be suitable to the replanting of a street tree, as shown on the previously approved Plan dated December 14, 2020.

**Finding:** During the Public Hearing the Petitioner indicated concern that a street tree at these locations could inhibit sightlines of drivers entering or exiting the property onto Route 117.

**Finding:** The Planning Board finds that the area of pavement striped for no parking, immediately west of the primary entrance to 108 Great Road (entrance west of proposed building), is up to 15' feet deep, beginning at a setback of 10' feet from the edge of pavement. Although the Application is not a Subdivision, the Planning Board's Rules and Regulations governing the Subdivision of Land require street trees to be planted 10' feet from the edge of the street. Given the depth of the area is at least 10' feet, the Planning Board feels the area of pavement would be an acceptable location for loaming, seeding and the planting of a street tree.

**Condition:** Unless or until the Petitioner submits information from a registered professional engineer that the location of a street tree along the west side of the eastern 108 Great Road entrance will detrimentally affect sightlines for vehicles, the area of pavement striped for parking and immediately west of the primary entrance to 108 Great Road (entrance west of existing building), shall be loamed and seeded and planted with a variety of street tree listed on the "*Tree Wardens List of Acceptable Species for Street Tree Plantings in the Town of Stow*," dated 10.3.2017.

**Condition:** Unless or until the Petitioner submits information from a registered professional engineer that the location of a street tree at the northwestern corner of Parcel 87 will detrimentally affect sightlines for vehicles, the area shall be maintained as loamed and seeded and planted with a variety of street tree listed on the "*Tree Wardens List of Acceptable Species for Street Tree Plantings in the Town of Stow*," dated 10.3.2017.

**Plan Modification:** Prior to endorsement, the Plan shall be modified to show the area of pavement immediately west of the primary entrance to 108 Great Road (entrance west of the existing building) and the area at the northwestern corner of 118 Great Road to each be loamed and seeded and include a notation of the species of street tree to be installed.

#### *Additional Landscaping and Pavement Removal*

7.45 **Finding:** The original Petition for a Special Permit included a plan modification and corresponding condition stating that at least one shade tree shall be installed on the landscaped island as required in Section 7.7.6.1 and 7.7.6.2 of the Zoning Bylaw.

**Finding:** The Plan includes one white oak to be installed in the landscaped island.

**Condition:** The Site shall be in compliance with Section 7.7.6 of the Zoning Bylaw.

- 7.46 **Finding:** During the Public Hearing, it was noted that the final condition of several areas labelled “Proposed Snow Storage Area” is not labelled on the Plan.

**Condition:** The areas of the Site labelled as “Proposed Snow Storage Area” shall each be loamed and seeded.

**Plan Modification:** Prior to endorsement, the Plan shall be modified to indicate that the “Proposed Snow Storage Area” locations are to be loamed and seeded.

### **Traffic Study**

- 7.47 **Finding:** The Application includes the submission of a Limited Traffic Study in accordance with Section 4.15 of the Special Permit Rules. The findings indicate that with the renovation of the existing 67 seat restaurant into a coffee/donut shop without drive-through service, the net change in weekday trips at the site will drop by approximately 94 trips per day.

**Finding:** The Planning Board finds that the Lower Village Business District fronts along Route 117, a principal arterial in the Town of Stow, and has been designed to effectively manage access along the corridor for business uses.

**Finding:** The Planning Board finds the Limited Traffic Study as proposed sufficient for compliance with Section 4.15 of the Special Permit Rules.

### **Lower Village Streetscape Standards**

- 7.48 **Finding:** The original Special Permit included a finding that the Lower Village Committee's Standard Streetscape and Fencing Style and Specifications, which included the use of split rail fencing and street trees along property frontages in Lower Village, may be difficult to implement at this site.

**Finding:** The Planning Board finds that the frontage area where such Streetscape standards would be applied is within the Town's pedestrian easement. The Board would be interested in working with the Petitioners at a future time to agree upon the placement of a split rail fence in the grass buffer between the frontage parking stalls and the sidewalk.

### **Construction Hours**

- 7.49 **Finding:** The original Special Permit included a plan modification and corresponding condition to ensure signage indicating hours for all trucks, including delivery and trash removal shall be installed at all loading areas, with hours for trucks, including delivery and trash removal shall be limited from 7:00 a.m. to 5:30 p.m.

**Finding:** The Board finds that the revised Plans indicate the location of a temporary sign limiting truck delivery hours to 7:00 a.m. to 5:30 p.m. daily during construction.

**Condition:** Exterior construction activity related to the Special Permit and Site Plan Approval as conditioned herein shall take place only between the hours of 7:00 a.m. and 5:30 p.m., Monday through Friday excluding official Town of Stow holidays and 8:00 a.m. to 12:00 p.m. Saturdays unless specific approval is granted by the Building Commissioner.

**Condition:** The Petitioner shall post allowable hours on site.

**Condition:** In the event that the Building Commissioner authorizes an exception to the posted hours, notice shall be provided to the Police Department and the Board by the Applicant.

## **Legal Provisions**

- 7.50 **Finding:** The foregoing required modifications and conditions have been stated for the purpose of emphasizing their importance but are not intended to be all inclusive or to negate the remainder of the Bylaw, Rules, or other applicable laws and regulations. At the time of endorsement, the Plan must be in compliance with the Rules, except for the waivers granted herein.
- 7.51 **Condition:** This approval shall not be deemed approval by any other authority having its separate jurisdiction and inspection requirements.
- 7.52 **Finding:** The Board reserves the right to enter the property to review ongoing compliance with the conditions imposed within the Special Permits approved herein.
- 7.53 **Condition:** The Petitioner shall grant permission to agents of the Town of Stow, as said agency is determined by the Stow Planning Board, to enter, inspect and take whatever related actions are necessary to ensure compliance with the terms of this Special Permit Decision.
- 7.54 **Condition:** This Special Permit/Site Plan Approval shall lapse in two (2) years from the date of this Decision unless substantial use or construction has commenced.
- 7.55 **Condition:** The terms, conditions and provisions of this Decision shall run with the land and shall be binding upon the Petitioner, its successors in interest and assigns, and shall be enforceable by the Town of Stow.
- 7.56 **Condition:** The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this Decision, with or without a public hearing, upon the request of the Petitioners or upon its own motion.
- 7.57 **Condition:** This Special Permit shall be recorded in the Middlesex South Registry of Deeds and duly indexed or noted on the Owner's Certificate of Title. Prior to issuance of a Building Permit, a copy of the recorded Decision, certified by the Registry, or notification by the Owner of the recording, including recording information, shall be furnished to the Town Clerk, the Building Commissioner and the Planning Board.

## 8. APPEALS

Appeals, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws, Chapter 40A and shall be filed within twenty (20) days after the date of filing this Decision with the Town Clerk.

Lori Clark  
Lori Clark, Chair

Karen Kelleher  
Karen Kelleher

John Colonna-Romano  
John Colonna-Romano

Margaret Costello  
Margaret Costello

Nancy Arsenault  
Nancy Arsenault

Received and Filed  
Volume II, Page 638-3

Linda E. Hathaway  
Linda Hathaway, Town Clerk

January 30, 2024  
Date

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

\_\_\_\_\_  
Linda Hathaway, Town Clerk

\_\_\_\_\_  
Date