



Town of Stow
PLANNING BOARD

380 Great Road
Stow, Massachusetts 01775-1122

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NOTICE OF DECISION and DECISION

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

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December 13, 2022

1. Petition

This Document is the **DECISION** (hereinafter the Decision) of the Planning Board (hereinafter the Board) on a Request for Special Permit and Site Plan Approval submitted by JKC Properties, LLC and MAP Holdings, LLC (hereinafter the Petitioners), for the construction of a two story Retail and Office Building at 108 and 118 Great Road, on property owned by JKC Properties, LLC.

This Decision is in response to a Request for Site Plan Approval and Special Permit submitted to the Board on October 11, 2022 (hereinafter the Petition), pursuant to Sections 3.3, 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). The Petitioners seek permission to site a two-story Retail and Office Building.

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

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 December 13, 2022, 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 Special Permit, including the

provision of retail and office uses, in accordance with the Findings, Plan Modifications and Conditions contained herein.

5. Proceedings

The Petition for Special Permit and Site Plan Approval was received by the Board on October 11, 2022 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 November 15, 2022 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

- Petition for Special Permit or Special Permit Extension
- Application for Site Plan Approval or Site Plan Approval Extension
- Memorandum in Support of Special Permit and Site Plan Approval Applications and Request for Waivers
- Draft Legal Notices
- Filing Fee
- Assessor's Certified List of Abutters
- MAP Holdings, LLC Manager's Certificate

EXHIBIT 2 Supplementary documents, consisting of the following:

- Special Permit and Site Plan Approval Decision, 108-118 Great Road, dated March 26, 2020
- Minor Modification #1 of Special Permit and Site Plan Approval Decision, 108-118 Great Road, dated November 17, 2020

EXHIBIT 3 Plans entitled "Site Plan 108-118 Great Road, Stow Massachusetts, July 30, 2019," prepared by Stamski and McNary, Inc. for JKC Properties, LLC, last revised December 14, 2020

- Sheet 1: Cover Sheet
- Sheet 2: Site Development Plan
- Sheet 3: Layout Plan
- Sheet 4: Construction Details Plan
- Sheet 5: Stormwater Pollution Prevention Plan

EXHIBIT 4 Plans entitled "Site Plan 108-118 Great Road, Stow Massachusetts, Firetruck Turning Template," prepared by Stamski and McNary, Inc. for JFC Properties, LLC, dated October 25, 2019

EXHIBIT 5 Architectural renderings titled “108 Great Road – New Retail Construction, Stow, MA,” prepared by RP Architectural Studio for John Cramer, Summer Street Properties, LLC, and dated January 31, 2021.

6.2 Additional Correspondence:

- a) Letter from Daniel Carr of Stamski and McNary, dated December 14, 2020
- b) Letter from Derek Houle, Hudson Light and Power, dated October 18, 2022

6.3 Comments received from Town Staff, Boards and Committees:

- a) Memo from the Stow Treasurer/Collector, dated October 12, 2022
- b) Memo from the Board of Assessors, dated October 14, 2022
- c) Memo from the Police Department, dated October 18, 2022
- d) Memo from the Fire Department, dated October 19, 2022

6.4 Documents submitted for the Board’s deliberation relative to Special Permit and Site Plan Approval, 108-118 Great Road, dated August 30, 2019:

1) Plans entitled:

- “Site Plan 108-118 Great Road, Stow Massachusetts, July 30, 2019,” prepared by Stamski and McNary, Inc. for JKC Properties, LLC, last revised October 25, 2019.
- Architectural renderings titled “New Commercial Property for 108-118 Great Road, Stow, MA 01775,” prepared by Boston Design Partners for JKC Properties, LLC and dated May 2, 2019.

2) Application

- Petition for Special Permit
- Development Impact Statement
- Record Deed
- Use Description
- Limited Traffic Study
- Stormwater Operations and Maintenance Manual
- Stormwater Management Report

3) Request for Waivers

4) Certified List of Abutters

5) Filing Fee

6) Additional Correspondence submitted by the Petitioner:

- Email from John Cramer, dated November 15, 2019
- Revised Site Plan, dated October 25, 2019 showing truck turning radii and proposed landscaping;
- Letter from Daniel Carr of Stamski and McNary, dated October 25, 2019.

7) Comments received from Town Staff, Boards and Committees:

- Memo from the Stow Treasurer/Collector, dated September 5, 2019
- Memo from the Board of Assessors, received September 5, 2019
- Memo from the Town Clerk, dated September 6, 2019
- Email from the Conservation Commission, dated September 25, 2019
- Email from the Fire Department, dated December 13, 2019
- Memo from the Stow Police Department, dated September 12, 2019
- Department of Environmental Protection Sanitary Survey dated 4.3.2019, submitted by the Stow Board of Health.

8) Correspondence from Places Associates, Inc., Town of Stow Consulting Engineer:

- Letter and Plan markup dated October 21, 2019
- Letter update, dated November 12, 2019

- 6.5 Documents submitted for the Board's deliberation relative to Minor Modification #1, Special Permit and Site Plan Approval Modification, 108 and 118 Great Road, dated November 17, 2020:
- 1) Application for Special Permit Modification
 - 2) Filing Fee
 - 3) Letter submitted by John Cramer, dated September 30, 2020
 - 4) Comments received from Town Staff, Boards, and Committees:
 - Email from Building Inspector
 - 12.1.2010 For Lease Sign Permit for 108 Great Road
 - 2.15.1982 Retail Bank Sign Permit for 118 Great Road
 - 5) Correspondence from Places Associates, inc., Town of Stow Consulting Engineer:
 - Letter and Plan markup dated October 21, 2019
 - Letter update, dated November 12, 2019

Exhibits 6.1 through 6.5 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 renewal of the Special Permit and Site Plan Approval as approved on March 26, 2020, and modified on November 17, 2020 as the original permit expired and the modified permit was ineffective because it was not approved at a public hearing.
- 7.2 **Finding:** The Petitioner seeks Special Permit and Site Plan Approval for the razing of a vacant 67 seat restaurant at 108 Great Road and construction of two-story retail and office building at a similar location on the lot as the former building's footprint. 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.

Finding: The proposed retail and office building will initially consist of 2 units that may be reconfigured internally to fit the space needs of future tenants. Two tenant units are expected on the first floor while two mechanical and storage spaces occupy the second floor.

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.

- 7.3 **Finding:** The proposed use is located in the Business and Residential District.
- Finding:** The proposed use, as conditioned herein, is allowed by Special Permit in accordance with the Business District - Section 3.3.2 of the Zoning Bylaw.
- 7.4 **Finding:** The Petitioners requested the following waivers from the Special Permit Rules and Regulations and Site Plan Approval Rules and Regulations governing filing requirements:
- Section 3.3.1(1) Number of copies of properly executed Petition for Special Permit Form;

- Section 3.3.1(2) The required filing fee;
- Section 3.3.1(3) Number of copies of full scale and reduced scale plans;
- Section 3.3.1(4) Copies of the Stormwater Management Report;
- Section 3.3.1(5) Copy of the deed for all parcels contained within the site plan;
- Section 3.3.1(6) Development Impact Statement with supporting documentation;
- Section 3.3.1(8) Letter documenting authorizing vote if the developer is acting in the name of a trust, corporation or company;
- Section 3.4 Filing Fee
- Section 4.1.2 Required Components of a Site Plan;
- Section 4.4 Development Impact Statement;
- Section 4.5 Other Permits and Variances;
- Section 4.6 Recorded Plans
- Sections 4.7, 4.8, 4.9, 4.10, 4.11, and 4.12 Plans, Construction Detail Plan, Landscape Plan, Building Elevation Plan, Floor Plan, and Use Description
- Section 4.13, 4.14, 4.15, and 4.17 Stormwater Management, Earth Removal Calculations, Traffic Study, Recommendations from Other Boards, Committees, and Agencies

Waiver: The Planning Board therefore **GRANTS** the waivers requested from the Special Permit Rules and Regulations and Site Plan Approval Rules and Regulations Sections 3.3.1, Section 3.3.1(3), Section 3.3.1(4), Section 3.3.1 (5), Section 3.3.1 (6), Section 3.3.1(8), Section 4.1.2, Section 4.4, Section 4.5, Section 4.6, Sections 4.7, 4.8, 4.9, 4.10, 4.11, and 4.12, Section 4.13, 4.14, and 4.15.

Condition: Prior to endorsement of the Plans, three full size copies of the Plans shall be provided to the Planning Department.

Finding: The Planning Board finds that the fee schedule is appropriate given the Petitioners' request for reissuance of the Special Permit and the staff time required to administer the permitting process, draft the decision, and communicate with abutters and Town Departments.

Finding: Prior to the public hearing, the Planning Board transmitted a copy of the Petition to relevant Boards, Committees, and Agencies per Section 4.17 of the Special Permit Rules and Regulations and Site Plan Approval Rules and Regulations.

Waiver: The Planning Board therefore **DENIES** the waivers requested from the Special Permit Rules and Regulations and Site Plan Approval Rules and Regulations Sections 3.3.1(2) and Section 3.4 related to provision of the filing fee and Section 4.17 related to seeking recommendations from other Boards, Committees, and Agencies.

Condition: Prior to endorsement of the Plans, the Petitioners shall provide the full filing fee.

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

Site Characteristics

- 7.6 **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, meeting the threshold for 200 linear feet of frontage along Route 117 in accordance with Section 4.4(2). Together, the combined lots, held in common ownership meet the frontage and lot area requirements of the Zoning Bylaw.

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

Site Circulation

- 7.7 **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 require further Modification of the Special Permit.

- 7.8 **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.

Finding: The original Special Permit and Site Plan Approval issued on March 26, 2020, included a condition stating that Acton Fire Apparatus turning movements shall be shown navigating around the landscaped islands as conditioned herein, and specifically along the property boundary of 108 and 118 Great Road, for the purpose of demonstrating the ability of trucks to enter and exit the site. The Board's consulting engineer noted that although the Plan shows entrance to the site by the largest Acton firetruck (3 axle, 40.7' feet long) to simulate the largest mutual aid vehicles accessing the site, not all turns are accounted for and the simulation does not show the trucks completing a full entrance and exit of the site.

Finding: On December 14, 2020, the Board received a Firetruck Turning Template dated October 25, 2019 indicating the ability of the Acton Fire Apparatus to navigate around the landscaped islands and along the property boundary of 108 and 118 Great Road.

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

- 7.9 **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 7.40 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.

- 7.10 **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: Since the time of the original Petition, the Plan has been modified to indicate an existing "Do Not Enter" sign by the southwesterly corner of the building and a proposed "Do Not Enter" sign by the northwesterly corner of the building in order to restrict vehicular access to the access lane.

Condition: Prior to issuance of a Certificate of Occupancy, the proposed "Do Not Enter" sign at the northwesterly corner of the building at 118 Great Road must be properly installed.

Landscape Plan Waiver

- 7.11 **Finding:** Within the August 30, 2019 Petition, the Petitioner requested a waiver from the requirement for a landscape plan in accordance with Section 4.9 of the Rules, as the parking area is pre-existing and the existing landscaping will remain.

Finding: In the original Special Permit, the Planning Board found that the plan did not meet the expectations and vision for landscaping in the Lower Village as proposed. The Planning Board found that although the landscaping and parking areas on the site are pre-existing, there are opportunities to better conform to Section 7.7.4 and 7.7.6 of the Zoning Bylaw regarding parking area landscaping. The Planning Board therefore denied the waiver from Section 4.9 of the Rules for submission of a landscape plan.

Finding: The original Special Permit included a condition stating that prior to commencement of construction the Petitioner shall submit a landscaping and parking area upgrade plan consistent with the conditions herein. The Planning Board finds that the revised Site Plans dated December 14, 2020 include a satisfactory landscaping plan. The Board finds that this condition has been satisfied.

Parking

- 7.12 **Finding:** The Planning Board finds that the Site's parking arrangement has been reconfigured to bring the overall parking arrangement further in compliance with current Zoning Bylaw requirements of Section 7.3.3.5 and is adequate for the proposed use as conditioned herein.

- 7.13 **Finding:** The Application proposes eighty (80) total parking spaces. Thirty one (31) spaces are proposed at 108 Great Road and forty nine (49) spaces at 118 Great Road.

- 7.14 **Finding:** The Petitioners have not provided information detailing the square footage of different tenant spaces at the 118 Great Road retail plaza for the purpose of confirming the required number of parking spaces in accordance with Section 7.3.3 of the Zoning Bylaw.

Condition: Prior to endorsement of the Plans, the Petitioners shall provide sufficient information to determine whether the required number of parking spaces are provided to service the existing and proposed parking demands at the Site.

- 7.15 **Finding:** Section 7.2.3.1 of the Zoning Bylaw provides relief from the parking regulations to be granted by the Zoning Board of Appeals where the Board can find that “it is not practicable to provide the number of parking spaces required...”

Condition: In the event that a use is proposed that would raise the number of parking spaces required by Section 7 of the Bylaw beyond the current allocation, the Petitioner shall seek a Special Permit from the Zoning Board of Appeals in accordance with Zoning Bylaw Section 7.2.3.1. for a determination that such an increase is deemed appropriate.

- 7.16 **Finding:** The proposed and existing buildings at 108 and 118 Great Road, respectively, 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, the Planning Board recommends consideration of proposing a shared parking agreement as applicable. 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.

- 7.17 **Finding:** The original Petition for a Special Permit did not include any facilities for bicycle accommodation. The revised Plans include 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 recently completed 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 new development should provide appropriate facilities to accommodate that accessibility.

Finding: The original Petition for a Special Permit included a plan modification and corresponding condition stating that bicycle accommodations, such as bike racks, shall be incorporated into the site plan. The Planning Board finds that this condition has been satisfied.

Condition: Bicycle accommodations, such as bike racks, shall be provided at the Site.

- 7.18 **Finding:** The Plan shows proposed pavement removal extending over a corner of property owned by the Presti Family Limited Partnership. No easement for the pavement removal is shown on the plan.

Condition: Pavement removal or other work related to the parking and access of 108 and 118 Great Road shall not overlap with any abutting properties without an easement providing for such use being submitted to the Board.

Plan Modification: Prior to commencement of construction the Plan shall be modified and approval shall be obtained from the Board to clarify that no work is proposed along the abutting property owned by Presti Family Limited Partnership. In the event an easement is granted for the encroachment, the Plan shall be modified to note the easement and the easement shall be submitted to the Board for review and approval.

Interior and Perimeter Landscaping for Parking Areas

- 7.19 **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

Finding: The Planning Board finds that the plan does not meet the expectations and vision for parking area landscaping in the Lower Village as proposed.

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 Section 7.7.4.1 of the Zoning Bylaws, as the lot is adjacent to a Residential District and a Recreation-Conservation District.

- 7.20 **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.

Condition: If future renovation of 118 Great Road is proposed, it shall comply with Section 7.7.4 of the Zoning Bylaw.

Addition of Street Tree at Western Curbcut of 108 Great Road

- 7.21 **Finding:** During the Public Hearing on the August 30, 2019 Petition 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, but striped to preclude parking. Given the proximity of the existing parking to Great Road, this location would be ideal as an area to be loamed and seeded and reserved for the installation of a street tree.

Finding: During the Public Hearing on the August 30, 2019 Petition the Petitioner indicated concern that a street tree at this location could inhibit sightlines of drivers exiting the property onto Route 117.

Finding: In the March 26, 2020 Special Permit, the Planning Board found 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.

Finding: The March 26, 2020 Special Permit included a plan modification and corresponding condition stating that unless or until the Petitioner submits information from a registered professional engineer that the location of a street tree along west side of the eastern 108 Great Road entrance will detrimentally affect sightlines for vehicles, the area of pavement striped for no parking, and immediately west of the primary entrance to 108 Great Road (entrance west of proposed 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. The Planning Board finds that this condition has been satisfied as this area is proposed to be loamed and seeded, with the inclusion of a 2 – 2.5 inch caliper red oak.

Additional Landscaped Islands

7.21 **Finding:** During the Public Hearing on the August 30, 2019 Petition, the Board raised concern that there are large swaths of existing pavement at the center of the site that will contain no vegetation to mitigate views, provide shade or add to the aesthetics of the Business District. The Planning Board found that the plan does not meet the expectations and vision for parking area landscaping in the Lower Village as proposed and included the following findings in the original Special Permit:

- Zoning Bylaw Section 7.7.5 – Standard Parking Dimensions requires a minimum maneuvering aisle width of 24' feet. The primary access driveway between parking stalls along the 108 Great Road frontage and the middle of the lot measures approximately 34' feet in width. The access driveway between the middle parking stalls and the parking stalls along the rear lot line of 108 Great Road measures approximately 32' feet in width. The Plan does not indicate whether the 10% minimum interior landscaping requirement under Section 7.7.5 of the Bylaw is met.
- Section 7.7.6 of the Zoning Bylaw requires standards for interior parking landscaping requirements.
- The Planning Board's consulting engineer noted the following concerns:
 - There is excessive pavement in the aisle widths of 108 Great Road with the potential to create additional islands and buffers;
 - A proposed 280' square foot island at the western edge of the mid-lot parking stalls, which straddles the property bound between 108 and 118 Great Road does not indicate any surface treatment, nor any notes on proposed curbing.
- The Planning Board finds that the addition of a landscaped island separating the mid-lot parking stalls could be added while maintaining maneuvering aisle widths in excess of the required 24' feet. The Board finds that the addition of the

landscaped island would accommodate additional landscaping and potential for additional shade trees.

Finding: The original Petition for a Special Permit included a plan modification and corresponding condition stating that additional landscaping in the interior parking area shall be provided, separating the two rows of mid-lot stalls at 108 Great Road. The island shall meet the standards for interior landscaping in Section 7.7.6 of the Zoning Bylaw to the extent practicable. 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. In the event the Petitioners provide sufficient indication that underground utilities or stormwater management facilities preclude the installation of shade trees, the Petitioners shall provide shallow rooted shrubs and/or grasses as a substitute. Additional interior parking landscaping, including any proposed islands, shall be designed to meet the requirements of fire apparatus turning radii. The Planning Board finds that this condition has been satisfied.

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

Redesign of Proposed Island

7.29 **Finding:** During the Public Hearing on the August 30, 2019 Petition, the Planning Board raised concern with the design of a proposed approximately 280' square foot island at the western edge of the mid-lot parking stalls, which straddles the property bound between 108 and 118 Great Road. At the time, no treatment was noted on the plans for the island, nor any notes on proposed curbing. The Planning Board included the following findings as part of the original Special Permit:

- The Board's consulting engineer noted that the purpose of the island is unclear and that the island should contain rounded corners in addition to surface cover and landscaping.
- During the Public Hearing the Petitioner noted that the island will be loamed and seeded but is not proposed to have any curbing. The Petitioner's engineer noted that the island will contain a proposed diversion manhole cover.
- The Planning Board finds that the plan does not meet the expectations and vision for parking area landscaping in the Lower Village as proposed. The Board finds that the proposed island breaks up the expansive pavement, provides an opportunity for further landscaping and brings the site in better compliance with the interior landscaping standards of Section 7.7.5 of the Zoning Bylaw. However, the island would benefit from a redesign to better relate to the required landscaped island in Condition 7.15 and provide for more definition around the perimeter of the mid-lot parking stalls.

Finding: The Planning Board included a plan modification and corresponding conditions in the original Special Permit stating that "the proposed island at the western end of the mid-lot parking stalls at 118 Great Road shall be redesigned to better conform to the perimeter shape of the mid-lot parking stalls, including the use of rounded corners. The island shall be redesigned to complement the landscaped island relating to Condition

7.15 of this Decision, including but not limited to the potential for creating a T-shaped island conforming to the perimeter shape of the mid lot parking stalls.

In the event that the landscaped island conflicts with truck turning radii as shown on the Plan, the Applicant shall provide a reduced width island that balances the need for emergency access with the conditions as stated herein.

The proposed island at the western end of the mid-lot parking stalls at 108 Great Road shall be landscaped to meet the requirements of Section 7.7.6 to the extent practicable. In the event the Applicant provides sufficient indication that underground utilities or stormwater management facilities preclude required landscaping, alternative treatments shall be proposed.” The Planning Board finds that these conditions have been satisfied through plan revisions dated December 14, 2020.

- 7.23 **Finding:** During the Public Hearing on the August 30, 2019 Petition, it was noted that the final condition of the area between the proposed building and streetscape sidewalk is not labelled on the Plan. The Planning Board included a plan modification and corresponding condition in the original Special Permit stating that the area between the streetscape sidewalk and the proposed building shall be loamed and seeded. The Planning Board finds that this condition has been satisfied.

Finding: During the Public Hearing on the August 30, 2019 Petition, 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 Improvements and eventually removed, and the Board found the location to be suitable for the replanting of a street tree. The original Special Permit included a plan modification and corresponding condition stating that a street tree conforming to the “*Tree Wardens List of Acceptable Species for Street Tree Plantings in the Town of Stow*,” dated 10.3.2017 shall be placed at the snow storage area at the far northwest corner of the 118 Great Road Parcel. The Planning Board finds that this condition has been satisfied as this area is proposed to include a 2 – 2.5 inch caliper red oak.

Traffic Study

- 7.24 **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 removal of the 67 seat restaurant and the change to retail and office use at the proposed building, the net change in weekday trips at the site will drop by approximately 109 trips per day.

Finding: The Planning Board finds that the 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

- 7.25 **Finding:** During the Public Hearing the Planning Board noted 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. The Board noted that the split rail fence previously existing at the site prior to the Town's construction of the Lower Village Traffic Improvements is being stored at the Highway Department.

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.

Architectural Design of Proposed Building

- 7.26 **Finding:** The Plans include architectural elevations and layouts of the proposed building at 108 Great Road. The Petitioner stated during the Public Hearing on the August 30, 2019 Petition that he provided the results of the Stow Visual Preference Survey to their architect to inform the design of the structure.

Finding: The original Special Permit included a finding that the Building as proposed includes elements of New England vernacular design that fits with the rural, historic character of Stow. Additionally, the front porch, and pattern of doors and windows is designed to invite pedestrian use and provide visual interest. The Planning Board found the design and placement of the Building on the site suitable for the location and uses proposed.

Finding: The original Special Permit included a condition that stated if 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.

Finding: On March 1, 2021, the Petitioner provided revised architectural renderings that altered the proposed roofline, porch features, and entrance locations. The revised renderings include tenant space on the first floor with the second floor reduced to only provide space for utilities and storage. The Planning Board requested the Petitioner further review the rear elevation, inclusion of symmetrical design features, and strategies for altering the significant areas of unbroken roofline.

Finding: On May 4, 2021, the Petitioner provided revised architectural renderings in response to the Planning Board's comments.

Finding: The revised architectural plans do not include the correct date of revision.

Finding: The Planning Board finds that the revised architectural renderings provided on May 4, 2021 provide the building with more architectural symmetry and better reflect the new one-story design.

Plan Modification: Prior to issuance of a Building Permit, the architectural renderings shall be revised to include the proper date of revision.

Dumpster Location

7.27 **Finding:** The original Special Permit included a finding that the Plan shows the location of a dumpster to be placed on an existing concrete pad directly to the south of the easternmost curbcut with no screening shown on the plan. The original Special Permit included a plan modification and corresponding condition stating that screening for the dumpster from the road shall be provided. The Planning Board finds that this condition has been satisfied.

Finding: The Plan shows the location of a second dumpster to be placed at the rear of the parking lot of 118 Great Road.

Condition: All dumpsters and trash receptacles at the Site shall have fenced screening directly around them and the screening shall be perpetually maintained.

Plan Modification: Prior to the issuance of an Occupancy Permit, the Plan shall be revised to include proper screening of all dumpsters.

Stormwater Management and Drainage

7.28 **Finding:** The original Special Permit included the following findings related to a requested a waiver from the requirement to provide stormwater management and drainage calculations, as the Petitioner indicated that a decrease in impervious surfaces and a decrease in rate and volume of runoff leaving the site is achieved through the proposed system:

- 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 the existing and proposed 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.
- 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.
- The Application includes test hole data, proving sufficient offsets to groundwater for the proposed system to function as designed.
- 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** the requested waiver from Section 4.13 of the Rules to provide

stormwater management and drainage calculations, as described in Section 7.4 of this decision.

- 7.29 **Finding:** The original Special Permit included a finding stating that the Plan includes a Stormwater Pollution Prevention Plan that provides relevant notes on stormwater pollution prevention and details on siltation barrier design. The Plan does not include erosion controls and siltation barriers around the area of the proposed building, walkways and other areas of excavation. The original Special Permit included a plan modification and corresponding condition stating that Erosion Control and sedimentation measures shall be incorporated around the building construction and other areas of excavation. The Planning Board finds that this condition has been satisfied.

Condition: Erosion Control and sedimentation measures shall be incorporated around the building construction and all other areas of excavation.

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

Construction Hours

- 7.30 **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.

Drinking Water and Wastewater Infrastructure

- 7.31 **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, its 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 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.

Condition: If, at any time, a restaurant is proposed at the site, a new Special Permit is required and the number of seats in the proposed building shall be limited to the total number as approved by the Board of Health for the Title 5 Septic System and by the Department of Environmental Protection for the Public Water Supply.

Shared Infrastructure

7.32 **Finding:** During the course of the Public Hearings on the August 30, 2019 Petition, the Planning Board's consulting engineer indicated that in addition to including recommendations for annual maintenance of the proposed stormwater system, the Operations and Maintenance Plan for the proposed system should be oriented to a layperson, and 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 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 an Operating Agreement 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 Operating Agreement, and any updates to the same, to the Planning Department.

Fire Safety Measures

7.33 **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.

Utilities

7.34 **Finding:** Section 4.7.3.4 (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.”

Finding: Proposed utilities are not shown on the Plan.

7.35 **Finding:** The Planning Board finds it is preferable to utilize existing poles to bring utilities to the site.

Condition: All onsite utilities serving 108 Great Road, including but not limited to electrical service, shall be located underground.

Condition: In the event that the 118 Great Road parcel is redeveloped, a modified Special Permit and Site Plan Approval shall be required and all proposed utilities shall be located underground. The Petitioner shall work with the utility provider to utilize existing poles to the extent possible in order to bring utilities to the site.

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.

Lighting

7.36 **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.

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.

Finding: No proposed lighting is shown on the Plan. During the Public Hearing on the August 30, 2019 Petition, the Petitioner indicated that they have obtained the services of an engineer to provide a compliant lighting plan for the site in accordance with the requirements of the Zoning Bylaw.

Condition: Prior to issuance of a Building Permit, a lighting plan conforming to the requirements Section 3.8.1.5 and all subsections, shall be submitted for review and approval by the Board.

Condition: All proposed exterior lighting fixtures shall conform to the Fixture Specific Conditions in Section 3.8.1.5.6 of the Zoning Bylaw. Cut sheets for proposed lighting shall be submitted to the Planning Board, demonstrating full cutoff design compliance.

Condition: Parking lot lighting shall be reduced to the extent practicable for safety concerns, from 10:00 p.m. until the earliest business opening time in the morning.

Signage

7.37 **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.

Finding: During the Public Hearing on the August 30, 2019 Petition, the Planning Board stated that aside from the requirements of Section 6.3 of the Zoning Bylaw governing the location, size and type of signs, 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.

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 requirement of Section 6.3 of the Zoning Bylaw and to the Visual Preference Survey results as practicable.

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.

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

SIGNS, which are oscillating, internally illuminated, flashing or operating with moving parts are not permitted, except for internally illuminated signs as allowed in Section 6.3 of the Zoning Bylaw.

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

Finding: The Planning Board finds that Section 6.3 of the Zoning Bylaw was amended through a Special Town Meeting vote on October 30, 2021 to allow a single internally illuminated window sign not exceeding three (3) square feet per establishment within the Business District.

- 7.38 **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: 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 118 Great Road, all non-conforming, internally lit signage at 118 Great Road shall be removed.

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 agreed to a three year timeframe for replacement of noncompliant signage.

Condition: The Petitioners shall require all pre-existing, non-conforming signage to be updated to conform to the current Zoning Bylaw standards upon replacement within three years of March 26, 2020, the date the original Special Permit was approved.

- 7.39 **Finding:** Prior to the 2019 Application for Special Permit a "For Lease" sign servicing 108 Great Road was removed by the contractor constructing the Lower Village Traffic Improvements. In the event the Petitioners propose to locate a lease sign for 108 Great Road, the sign shall conform to the dimensions of the lease sign previously removed by the Town during the construction of the Lower Village Improvements. In the event that a lease sign is proposed at the site, it shall conform to the dimensions of the sign previously removed.

Trail Access to Abutting Open Space

- 7.40 **Finding:** The Stow Conservation Commission 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.

Outdoor Dining

7.41 **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 3.3.2.4 of the Zoning Bylaw.

Condition: Stow Café must put forth an application for a Special Permit granted through the Planning Board in accordance with Section 3.3.2.4 of the Zoning Bylaw.

Legal Provisions

7.42 **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.

7.43 **Condition:** This approval shall not be deemed approval by any other authority having its separate jurisdiction and inspection requirements.

7.44 **Finding:** The Board reserves the right to enter the property to review ongoing compliance with the conditions imposed within the Special Permits approved herein.

7.45 **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 completion of the ways and related infrastructure within the subject property.

7.46 **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.

7.47 **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.

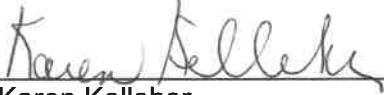
7.48 **Condition:** The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this Decision, with or without a public hearing, upon the request of the Petitioners or upon its own motion.

7.48 **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

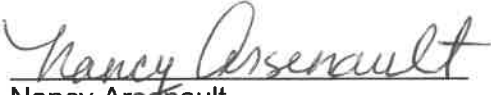
Appeals, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws, Chapter 40A and shall be filed within twenty (20) days after the date of filing this Decision with the Town Clerk.


Lori Clark, Chair

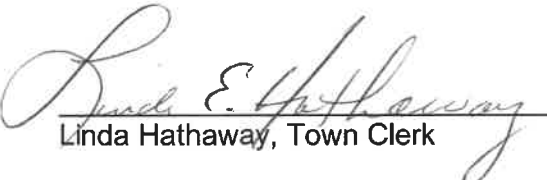

Karen Kelleher


John Colonna-Romano


Margaret Costello


Nancy Arsenault

Received and Filed
Volume II, Page 202205


Linda Hathaway, Town Clerk

December 31, 2022
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