



Town of Stow
PLANNING BOARD

**380 Great Road
Stow, Massachusetts 01775**

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NOTICE OF DECISION AND DECISION

63-65 White Pond Road

EARTH REMOVAL PERMIT,

CONTRACTOR'S YARD and

EROSION CONTROL SPECIAL PERMIT

and SITE PLAN APPROVAL

September 13, 2016

1. Petition

This document is the DECISION of the Stow Planning Board (hereinafter, the Board) on the Petition of Bransfield Tree Company, LLC. (hereinafter, the Petitioner) for property located at 63 - 65 White Pond Road.

This decision is in response to an application filed by the Petitioner for an Erosion Control Special Permit, Site Plan Approval and Earth Removal Permit submitted to the Board on June 23, 2016 (hereinafter the Petition), pursuant to Sections 9.2, 9.3, 3.8.1.10, and 3.5.3.3 of the Stow Zoning Bylaw (hereinafter the Bylaw), Special Permit Rules and Regulations (hereinafter the Rules), and Article 17 of the General Bylaw governing the removal of earth (hereinafter the General Bylaw). The Petitioner seeks permission to construct a seven (7) bay pre-engineered storage building with an office and execute an associated EARTH REMOVAL OPERATION.

2. Petitioner

Bransfield Tree Company
6 Sandy Brook Drive
Stow, MA 01775

3. Property Owner

Harold J. Hanson Estate
65 White Pond Road
Stow, MA 01775

4. Location

Said property is located at 63 – 65 White Pond Road and is shown as Parcels 72 and 73 on Assessor's Map Sheet R-29 (hereinafter, the Site).

5. Board Action

After due consideration of the Application and Petition, the record of proceedings, and based upon the findings and conclusions set forth below, the Board, on September 13, 2016, by a vote of 5 members present at the public hearing, voted to **GRANT** the requested Erosion Control Special Permit, Site Plan Approval and Earth Removal Permit.

6. Proceedings

The Petitioner presented the Petition at a duly noticed public hearing held on August 2, 2016. The Public Hearing was closed at the conclusion of the August 2, 2016 session. Board Members Lori Clark, Ernest E. Dodd, Stephen Quinn, Margaret Costello and Voting Associate member Mark Jones were present throughout hearing. The record of proceeding and submission upon which this decision is based may be referred to in the Office of the Town Clerk or the Office of the Planning Board.

7. Exhibits

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

- EXHIBIT 1 1. Plan entitled "Site Plan 65 White Pond Road", dated June 20, 2016, prepared by Stamski and McNary, Inc. consisting of the following sheets:
- Sheet 1 – Title Sheet
 - Sheet 2 – Site Development Plan
 - Sheet 3 – Construction Details Plan
 - Sheet 4 – Stormwater Pollution Prevention Plan
2. Elevation and Floor Plan entitled "Proposed New Building," dated July 7, 2016.
- EXHIBIT 2 Supplementary documents required by the Rules, consisting of the following:
1. Application
 - Petition for Contractor's Yard Special Permit, Erosion Control Special Permit and Earth Removal Permit dated June 22, 2016
 - Development Impact Statement Form
 - Earth Removal Calculations
 - Limited Traffic Study
 - Certified List of Abutters
 - Other Permits and Variances
 - Parcel Deed and Plan of Record
 - Stormwater Management Report, dated June 20, 2015
 2. Aerial Image for 65 White Pond Road
 3. 2013 Orthophotograph of Resource Areas from Oxbow Associates, Inc.
- EXHIBIT 3 Comments received from the Board's Consultant:
1. Letter dated July 19, 2016 from Places Associates, Inc.

- EXHIBIT 4 Comments received from other Town Boards, Committees and Departments, and State Agencies:
1. Interoffice memorandum, dated June 30, 2016 from the Treasurer Collector
 2. Interoffice memorandum, dated June 27, 2016, from the Board of Assessors
 3. Interoffice memorandum, dated June 28, 2016 from the Board of Health
- EXHIBIT 5 Comments received from abutting property owners
1. From Michael Lamorticelli – RE Issues with proposed plans for contractors yard.

Exhibits 1 and 2 are referred to herein as the Petition.

8. FINDINGS, CONCLUSIONS and CONDITIONS

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

- 8.1 **Finding** - The proposed project is located at 63 and 65 White Pond Road, as shown as Parcels 72 and 73 Assessor's Map Sheet R-29. Parcel 73 is 4.7+/- acres. Parcel 72 totals 6+/- acres. The site area is comprised of 1.5 acres on Parcel 72. Parcel 72 contains 209.77' feet of frontage.
- 8.2 **Finding** - The proposed project is located in the Commercial, Floodplain and Recreation Conservation Districts.
- 8.3 **Finding** – The Board of Assessors noted that both parcel 72 and 73 of Map Sheet R-29 are enrolled in Chapter 61A. The site area, as shown on the Plan is restricted to 1.5 acres making up the site of the current dwelling.
- Condition** – Prior to commencement of construction the Petitioner shall meet all the requirements of M.G.L. Chapter 61A as needed.
- 8.4 **Finding:** The Treasurer indicated that past taxes in the amount of \$19,736.14 are currently overdue for property at 63 and 65 White Pond Road.
- Condition:** Prior to issuance of a Building Permit overdue taxes shall be paid to the Town of Stow in full.
- 8.5 **Finding:** The proposed use requires a Special Permit under Zoning Bylaw Sections 3.5.3.3 – Commercial District Uses, 3.8.1.10 – Erosion Control, in accordance with Zoning Bylaw Sections 9.2 – Special Permits and 9.3 – Site Plan Approval. The Zoning Bylaw shall be referred to hereinafter as the Bylaw.
- Finding:** The proposed use is subject to the Special Permit and Site Plan Approval Rules and Regulations.
- 8.6 **Finding:** The proposed work includes cuts required for the proposed building and associated paved area, necessitating removal of 4,826 cubic yards of EARTH from the SITE and is therefore subject to an Earth Removal Permit, submitted concurrently with the Special Permit application on June 23, 2016, of which the Planning Board is the designated Permit Granting Authority in accordance with Section 2 of Article 17 of the General Bylaw. Said Permit shall be issued under the same cover as this Special Permit and Site Plan Approval Decision.

- 8.7 **Finding:** The Petition shows the razing of an existing dwelling at 65 White Pond Road and the removal of 6 outbuildings, for the proposed construction of a 4576+/- square foot, 7 bay storage building with administrative office to service operations of the Bransfield Tree Co., with two of the bays being available for lease to a similar contractor in the future. The Plans shows access to the proposed building through a 24' foot wide access driveway along the frontage of White Pond Road, connecting to an interior loop driveway to service 24 parking spaces at the front and side yards, as well as each of the garage bays and doors. A proposed private drinking water well, irrigation well and private on-site sewage disposal system are shown on the plan.

Finding: During the Public Hearing, the Petitioner noted that the construction of the proposed building and associated site work will allow for Bransfield Tree Co. to move to a location where it can more efficiently serve its primarily residential base of customers. The Petitioner noted that the outdoor storage of trucks and plant material will take place and that two of the garage bays in the proposed building will allow for future expansion or leasing opportunities to similar type of contractor.

Condition: Any future tenants utilizing the site shall conform to uses allowed in the Commercial District and shall be subject to all of the conditions of this Decision.

Landscaping and Screening

- 8.8 **Finding:** Section 4.9 of the Special Permit Rules and Regulations requires the submission of a Landscape Plan.

Finding: No Landscape Plan has been provided.

Finding: The Plan shows the location of three street trees.

Finding: During the Public Hearing an abutting property owner noted concern regarding the potential clear cutting of the property and the opening of views into the interior of the commercial contractor's yard.

Finding: The Petitioner indicated that 5 additional trees and shrubs could be planted along the frontage to further screen the development from neighboring residential properties. The Petitioner further noted that the remaining 8.6 acres of 63 and 65 White Pond Road will remain undeveloped and that vegetation on 63 White Pond Road, which currently serves as a vegetated screen, will not be altered.

Finding: The Planning Board finds that abutting dwelling at 56 White Pond Road is directly across from 63 White Pond Road, which is not proposed for development. The Board further finds that the addition of 5 additional trees and shrubs, added to the three street trees proposed will provide adequate screening of the proposed use.

Waiver: Although the Petitioner did not formally request a waiver from the requirements of Section 4.9 of the Special Permit Rules for a Landscape Plan, the additional street trees and shrubs and lack of development on 63 White Pond Road provides sufficient screening to abutting residential properties. Therefore, the Planning Board **GRANTS** a waiver to Section 4.9 of the Special Permit Rules.

Condition: Two (2) additional street trees and three (3) shrubs shall be planted along the landscaped frontage of the property.

Condition: All plantings shall be installed in accordance with Section 4.9.3.2 and 4.9.3.3 of the Special Permit Rules regulating the installation of plants and their long term maintenance.

Condition: Street tree species shall be selected from deciduous shade trees of Zone 4 hardiness, native to the southern New England region and shall be licensed nursery stock with good root development and branching characteristics. Installed trees shall have a caliper of at least 2.5" inches measured four feet above the ground and shall be ten to twelve feet in height.

Plan Modifications: Prior to endorsement, the Plan shall be modified to show the location of the two (2) additional street trees and three (3) additional shrubs along the landscaped frontage.

Security

8.9 **Finding:** During the Public Hearing abutting property owners noted that a fence at the entrance to the proposed contractor's yard would be preferred.

Finding: The Petitioner indicated that a gate to the site would not be preferred due to the type of contractor using the site. A more appropriate location for a gate would be behind the building, keeping the stored vehicles, plants and other equipment gated from the front parking area.

Finding: The Planning Board finds that the installation of a gate at the site would not be in keeping with semi-residential neighborhood of the proposed use. The Board further finds that a gate may cause disturbance from idling of trucks and vehicles at the entrance, and in the case of an interior gate, create disruption of the circulation layout, which as proposed, reduces truck noise by precluding the need for reversing.

Noise

8.10 **Finding:** During the Public Hearing abutting residents noted concern regarding noise generated by the proposed use and whether activities would be taking place after dark.

Finding: The Petitioner noted during the Public Hearing and in the submitted petition that typical work for contractors proposed to use the Building consists of teams of employees leaving the site at approximately 6am and returning near 3pm. The Petitioner further noted that there will be times when some work, including emergency tree work must take place after typical hours, but that it would not be a regular occurrence.

Finding: The Planning Board finds that the proposed contractor's yard as conditioned herein is appropriate for the use proposed in the Commercial District, given that the circulation layout minimizes the occurrence of back-up alarms from trucks.

Finding: The Planning Board finds that the use as conditioned herein may need to operate during the night when attending to emergency circumstances, although the normal operation as proposed, consists of activity during daylight hours. The Board further finds that the typical hours and the circulation layout provide for adequate noise abatement.

Condition: Exterior activity shall generally take place between the hours of 6:00 a.m. and 5:00 p.m., Monday through Friday, and 8:00 a.m. to 12:00 p.m. Saturdays unless specific approval is granted by the Building Commissioner.

Traffic

- 8.11 **Finding:** Section 4.5 of the Special Permit Rules requires the submission of a Traffic Study where a proposed use, will in the opinion of the Board, be likely to produce more than 100 average daily weekday automobile trips.

Finding: The Petitioner submitted a limited traffic study using Warehousing as the most applicable category of use according to the ITE Trip Generation Manual. The limited traffic study estimates the additional daily production of 84+/- Average Daily Trips per weekday, primarily occurring prior to and after the morning and evening peaks respectively. The study indicates that the number of employees is limited to 24, in accordance with thresholds for Department of Environmental Protection regulations for public water supplies beginning at 25 employees.

Finding: During the Public Hearing abutting property owners on White Pond Road noted concern with large amounts of traffic and congestion from the proposed use.

Finding: The Planning Board finds that the number of Average Daily Trips as estimated in the Petition, does not warrant the submission of a formal traffic study, although information regarding proper site distances is required. The Planning Board further finds that the addition of 84 average daily trips at hours typically prior to and after peak commuting hours will not negatively affect the level of service at White Pond Road.

Condition: Any increase in the number of parking spaces, average daily employees and/or proposal for a public water supply system shall require a modification to the Special Permit and a reevaluation of traffic along White Pond Road in accordance with Section 4.15 of the Special Permit Rules and Regulations.

Adequacy of Access

- 8.12 **Finding:** Section 4.15 of the Special Permit Rules requires sight distances for turning movements to and from the site to be analyzed using AASHTO standards.

Finding: During the Public Hearing abutting property owners noted concern over the location of the access, including the ability of trucks to navigate an area of White Pond Road that is narrow, unlit and contains pedestrian traffic.

Finding: The Board's consulting engineer noted that the sight distances appear to be inadequate at the proposed driveway location looking to the north where there is a slight high point in White Pond Road. Given that the exiting vehicles are likely to be slow moving trucks, potentially with trailers, the Board's consulting engineer recommends that sight distances be surveyed according to AASHTO standards for intersection sight angles.

Finding: During the Public Hearing the Petitioner noted that the entrance has been located to the north of the property where there is a higher elevation and therefore a more suitable sight distance. The Petitioner further noted that they could provide topography for the pavement.

Condition: The Petitioner shall provide information showing sufficient site distances to the satisfaction of the Board.

Condition: In the event that the Planning Board necessitates conformance to sight distances that requires a modification to the location of the proposed 24' foot access drive, then prior to endorsement, the Plan shall be modified and presented for the Board's review to determine whether such modifications require a Public Hearing for a Special Permit pursuant to MGL Ch.40A s.9, or are considered a minor modification not requiring a Public Hearing.

Plan Modification: Prior to endorsement the Plan shall be updated to show sight distances for intersections at the proposed access drive, including topographical information.

Circulation and Site Design

- 8.13 **Finding:** The Planning Board's consulting engineer noted an excessive amount of pavement proposed, with 60' feet of pavement from the front of the building to the road and 45' feet of pavement from the front parking area to the northerly site boundary.

Finding: During the Public Hearing abutters noted concern regarding the potential for trucks to use an abutting residential driveway as a back-up area.

Finding: The Petitioner indicated that the large amount of pavement allows trucks to navigate the site in a counter-clockwise direction, reducing the occurrence of truck back up alarms. The Petitioner further noted that the large pavement spaces provide the required space for doors on the building to be unobstructed by passing vehicles. The Petitioner noted that parking on the northerly side of the property also allows the handicapped spaces to have the most direct access to the entrance at the northwest corner of the proposed building.

Finding: The Planning Board finds that the proposed circulation design is adequate for the use intended.

Drainage and Erosion Control

- 8.14 **Finding:** Section 3.8.1.9 of the Zoning Bylaw requires that drainage associated with a Special Permit approval be designed so that pre-development surface runoff, erosion and sedimentation rates and volumes are not increased during and after construction of a development.

Finding: Section 3.8.1.10 of the Zoning Bylaw states that site design, materials, and construction processes shall be designed to avoid erosion damage, sedimentation or uncontrolled surface water runoff.

Finding: The Petition indicates that parking drainage will be directed to four deep sump and hooded catch basins leading to a sediment forebay and infiltration basin at the southwest corner of the site. A high point exists at the proposed access directing all runoff away from abutting properties and toward the infiltration basin. During construction erosion on the site will be controlled through the use of a temporary construction entrance, four temporary sediment basins, siltation barriers, fabric and

haybales. The Petition indicates that the drainage system is designed in accordance with the Department of Environmental Protection's Stormwater Management Policy.

- 8.15 **Finding:** The Plan, as conditioned herein meets the requirements of Sections 3.8.1.9 (Drainage) and 3.8.1.10 (Erosion Control) of the Bylaw.

Condition: Erosion and sedimentation control measures, as shown on the final approved plan, shall be in place at least 72 hours prior to the commencement of any site work or EARTH REMOVAL OPERATION and must be maintained during construction and remain in place until all site work is complete and groundcover is established.

Condition: A description of proposed dust control measures shall be provided to the Building Commissioner for review and approval.

Condition: Dust control measures shall be in place during and after construction in accordance with Section 3.8.1.2 of the Bylaw.

Finding: The site is subject to a National Pollutant Discharge Elimination System (NPDES) Construction General Permit as it disturbs over 1 acre of land.

Condition: The Petitioner shall provide a copy of the NPDES submission, Stormwater Pollution Prevention Plan (SWPPP), related reports and any plan modifications to the Board.

Condition: Prior to issuance of a building permit all erosion control protection measures shall be installed according to the Plan and as conditioned herein.

Condition: Prior to issuance of a building permit, an Operations and Maintenance plan shall be submitted for the Board's review and approval, detailing the maintenance of all drainage facilities proposed.

Well and Sewage Disposal System

- 8.16 **Finding:** The Plan shows a private drinking water well, irrigation well, and on-site sewage disposal system.

Finding: The Board of Health will review the Plan for compliance with MassDEP Title V and Board of Health Regulations.

Condition: The Plan shall comply with all local Board of Health regulations and MassDEP Title V requirements.

Finding: The Planning Board's consulting engineer noted that septic system capacity and drinking water well be designed to accommodate the same number of employees as the 24 parking spaces proposed.

Condition: Septic system and drinking water wells shall be designed for 24 employees.

- 8.17 **Finding:** The Planning Board's consulting engineer recommended that both wells proposed be protected with bollards to prevent equipment from damaging the housing.

Condition: Proposed wells shall be protected with bollards.

Plan Modification: Prior to issuance of a Building Permit, bollards protecting both proposed wells shall be shown on the plan.

Lighting

- 8.18 **Finding:** Section 3.8.1.5 of the Bylaw states “No exterior lighting, or other street lighting approved by the Selectmen, shall shine on adjacent properties or towards any STREET in such a manner as to create a nuisance or hazard.

Finding: The Applicant has indicated that no exterior lighting is proposed as part of the project.

Condition: All exterior lighting shall comply with Section 3.8.1.5 of the Zoning Bylaw.

Hazardous Waste Management

- 8.19 **Finding:** During the Public Hearing the Petitioner noted that they will be storing pesticides and fertilizer onsite, within the proposed building.

Condition: Pesticides shall be stored in a manner pursuant to the Federal Insecticide, Fungicide and Rodenticide Act, and applicable Massachusetts Department of Environmental Protection and Massachusetts Department of Agricultural Resources regulations.

- 8.20 **Finding:** The Planning Board’s consulting engineer noted that in contractor’s yards normal vehicle maintenance is commonly performed, as well as potential for parts washing and other source of potentially hazardous materials. The Board’s consulting engineer suggests potential mitigation measures for spills could include a requirement for on-site spill kits, secondary containment, limitations on the type and amount of automotive fluids on site, and identification of allowable maintenance uses. The Board’s consulting engineer further recommends maintenance be limited to occurring indoors and if required by building code, floor drains be provided.

Condition: A Spill Kit shall be located on site.

Finding: The Petition indicates that two of the seven garage bays are designed with the potential for providing leased space to a future tenant in a similar profession requiring storage space.

Finding: During the Public Hearing the Petitioner noted that vehicle maintenance, including oil changes would take place within the building. The Petitioner further noted that trucks would be cleaned and rinsed outdoors and that the stormwater management system is designed to provide pre-treatment for runoff.

Condition: The proposed building shall include the necessary infrastructure for the indoor service and maintenance of vehicles, such as floor drains, holding tanks and other associated improvements as required by the Massachusetts State Building Code.

Finding: The Planning Board finds that the Stormwater Management system as designed is meant to treat and convey stormwater runoff, not industrial wastewater from an exterior vehicle washing area. The Board further finds that given the potential for space to be leased to a future tenant, proper infrastructure and/or on site communication of washing and maintenance procedures is critical to protecting drinking water sources and nearby wetland and river resource areas.

Finding: No exterior vehicle washing area is shown on the plan.

Finding: An exterior vehicle washing area requires registration of the leaching basin with Massachusetts Department of Environmental Protection (MassDEP) Underground Injection Control (UIC), pursuant to 310 CMR 27.00.

Condition: In the event the Applicant chooses to include an exterior vehicle washing area, the following shall be met prior to issuance of a Building Permit:

- The location of the exterior vehicle washing area shall be shown on the plan.
- The outdoor truck washing area shall be registered with the Department of Environmental Protection pursuant to their regulations for UIC Class V Motor Vehicle – Rinse Water Well discharge.

Condition - Signage should be provided at the exterior vehicle washing area indicating that clean water shall be used to rinse vehicles only – no detergents are allowed. Signage should also indicate any other conditions in the Department of Environmental Protection Underground Injection Control Permit.

Plan Modification: The Plan shall be modified to show signage at the exterior vehicle washing area indicating that clean water shall be used to rinse vehicles only – no detergents are allowed. Signage should also indicate any other conditions in the Department of Environmental Protection Underground Injection Control Permit.

Plan Modification: The Plan shall be modified to show the location and detail of the exterior vehicle washing area, including any conditions in the MassDEP Underground Injection Control Permit.

Condition: In the event that approval of a DEP UIC Permit is sought and not received for the outdoor truck rinse area, the following conditions shall apply:

- Any truck washing/rinsing shall occur within the proposed building pursuant to requirements of the Massachusetts State Building Code.
- Signage shall be installed at the east and west ends of the building visible to all users of the garage bays, indicating that exterior vehicle washing is prohibited.
- No outdoor faucets or spigots shall be installed at the exterior of the building in the location of the garage bay doors.

Plan Modification: In the event that approval of a DEP UIC Permit is sought and not received for the outdoor truck rinse area, then prior to issuance of a Building Permit the Plan shall be modified to show signage at the east and west faces of the building, stating that exterior vehicle washing is prohibited.

Plan Modification: In the event that approval of a DEP UIC Permit is sought and not received for the outdoor truck rinse area, then prior to issuance of a Building Permit the Plan shall be modified to include a note that no outdoor faucets or spigots shall be installed on the exterior of the building.

- 8.21 **Finding** – As the proposed use requires a Special Permit, a sidewalk, walkway or path is required along the entire frontage of a LOT, either located on the LOT or within the Town's right-of-way with permission, in accordance with Section 9.2.7.14 of the Zoning Bylaw.

Finding - The Planning Board finds that there is sufficient area between the pavement and the right of way boundary along the frontage of 63 and 65 White Pond Road for an unpaved path along the entire frontage of the LOT. The Board further finds that concerns regarding pedestrian safety raised at the public hearing, in combination with the rural residential nature of White Pond Road, indicate that an unpaved path is most suitable for the site at this time.

In accordance with the Planning Board's Sidewalk Policy – Appendix J of the Planning Board Handbook, the Board may entertain the following offers in lieu of on-site construction of a sidewalk, walkway or path.

1. An offer to construct a sidewalk, walkway or path in the surrounding area.
2. An offer from the Applicant for contributions, in an amount based upon criteria outlined in Appendix J, to be deposited into an account identified specifically for construction of sidewalks, pathways, walkways or bike paths in the Town of Stow.

Condition – In accordance with Section 9.2.7.14 of the Zoning Bylaw and the Planning Board's sidewalk policy, the Petitioner shall choose from the following options:

- In the event the Petitioner elects to not construct a sidewalk **or** provide a fee in lieu of construction, an area along the entire frontage shall be left unimpeded for use as a pedestrian path and a ten foot wide walkway easement, in recordable form, shall be submitted to the Board for Approval and attached to the deed prior to endorsement of the Plan.
- In the event the Petitioner elects to construct a sidewalk in accordance with Appendix J of the Planning Board Handbook, then prior to issuance of a Building Permit, a sidewalk shall be constructed along the entire frontage of 63 and 65 White Pond Road. Design shall follow standards outlined in Section 8.7.2 of the Stow Subdivision Rules and Regulations and a ten foot wide walkway easement, in recordable form, shall be submitted to the Board for Approval and attached to the deed prior to endorsement of the Plan.
- The Petitioner may elect to pay a fee in lieu of constructing a sidewalk, walkway or path, in accordance with Appendix J of the Planning Board Handbook and submit a ten foot wide walkway easement in recordable form, to the Board for Approval and attached to the deed prior to endorsement of the Plan.

8.22 **Finding** – Section 4.7.2 of the Special Permit Rules requires each plan sheet the seal of a Registered Professional Engineer or a Registered Land Surveyor, or both as appropriate.

Condition – The Plans shall show the seal of a Registered Professional Engineer or Registered Land Surveyor, or both.

Mandatory Findings

- 8.23 **Finding** – The Board makes the following mandatory findings as required by Section 9.2 of the Bylaw:
- The proposed use, as conditioned herein, is in harmony with the purpose and intent of this Bylaw;
 - The proposed use, as conditioned herein, will not be detrimental or injurious to abutting properties or ways, the neighborhood, community amenities or the Town of Stow;
 - The proposed use, as conditioned herein, is appropriate for the site for which the petition is submitted and is related harmoniously to the terrain and to the use, scale and proportions of existing and proposed BUILDINGS in the immediate vicinity that have functional or visual relationship to the proposed use
 - The proposed use, as conditioned herein, includes sufficient mitigating measures which shall be implemented as part of the special permit for any adverse effects noted in the Development Impact Statement, reports from town boards and agencies, reports from consultants and public hearings;
 - The proposed use, as conditioned herein, will result in no pollution or contamination of the GROUND WATER, a GROUND WATER recharge area, a well, pond, stream, watercourse or inland wetland;
 - The proposed use, as conditioned herein, will result in no significant effect on the "level of service" (LOS) of the town roads or intersections of these roads. A significant effect on level of service is a projected use of greater than five percent (5%) of the reserve capacity of a road segment or turning movement by the proposed use at the completion of its development.
 - The proposed use, as conditioned herein, will result in no significant effect on level of service for any service provided by the Town, including fire, police and ambulance. Proof of no significant effect is the lack of need for the Town to add equipment and/or staff specifically due to the development;
 - The proposed use, as conditioned herein, will result in no redirection of existing surface water runoff such that there would be material impact on abutting parcels or downstream properties unless an appropriate easement is obtained to an existing watercourse;
 - The proposed use, as conditioned herein, will result in no transport by air or water of erodible material beyond the boundary line of the LOT (See also Section 3.8. Use Regulations, General);
 - The proposed use, as conditioned herein, will provide adequate provision for pedestrian traffic; and
 - The proposed use, as conditioned herein, will comply with all requirements of Site Plan Approval and all other applicable requirements of this Bylaw.
- 8.24 **Finding:** The Application is subject to Section 9.3 – Site Plan Approval as required in the Table of Principle Uses Subsection (3) of the Zoning Bylaw. The Planning Board makes the following mandatory findings as required by Section 9.3.12 of the Zoning Bylaw.
- a) The proposed use as conditioned herein protects the abutting properties and ways, the neighborhood, community amenities and the Town against seriously detrimental or offensive uses on the site and against adverse effects on the natural environment;

- b) The proposed use as conditioned herein provides for convenient and safe vehicular and pedestrian movement and that the locations of road and driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation, including emergency vehicles, on or adjoining the site;
- c) The proposed use as conditioned herein provides an adequate, convenient and safe arrangement of parking and LOADING SPACES in relation to the proposed uses of the site;
- d) The proposed use as conditioned herein provides adequate and safe methods of disposal of REFUSE or other wastes resulting from the uses permitted on the site;
- e) The proposed use as conditioned herein will not derogate from the purpose of this Bylaw; and
- f) The proposed use as conditioned herein complies with all applicable requirements of this Bylaw.

Earth Removal

- 8.25 **Finding:** The proposed work includes the removal of removal of 4,826 cubic yards of EARTH from the SITE and is therefore subject to an Earth Removal Permit as the total amount of EARTH to be removed from the SITE is in excess of 100 yards in a one year period.

Finding: The Petitioner submitted an Application for Earth Removal for which the Planning Board is the Permit Granting Authority in accordance with Section 2 of Article 17 of the General Bylaw.

Finding: The Petitioner indicated that the topsoil removed will stay on SITE, while the aggregate removed will be trucked to the abutting sand and gravel processing company – J. Melone and Sons Inc. at 77 White Pond Road, south of the proposed SITE.

Finding: The Planning Board finds that the EARTH REMOVAL OPERATION is for the purpose of excavating and grading for the proposed building and associated pavement for the proposed contractor's yard relating to this Special Permit and Site Plan Approval.

Condition: EARTH removed for the purposes described herein shall be trucked to J. Melone and Sons, Inc. site at 77 White Pond Road. In the event that another location is chosen, prior to the commencement of the EARTH REMOVAL OPERATION the Petitioner shall submit such change for Planning Board review and a determination shall be made by the Planning Board whether such change constitutes a minor modification of the permit or modification requiring a Public Hearing.

Plan Modification: Prior to issuance of a Building Permit a note shall be added to the Plan indicating that all EARTH removed from the SITE shall be trucked to J. Melone and Sons, Inc. at 77 White Pond Road.

- 8.26 **Finding:** Exterior construction activity related to the Earth Removal work as conditioned herein shall take place only between the hours of 7:00 a.m. and 5:00 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.
- 8.27 **Finding:** Section 8 of Article 17 allows for partial release of any security posted by the Applicant, owner or operator and full release of said security one year after the operation

has been completed or expired and upon final inspection unless a finding is made by the Permit Granting Authority that such security is unnecessary.

Finding: The Planning Board finds that the proposed EARTH REMOVAL OPERATION is proposed in conjunction with site work permitted herein and does not pose a significant public risk to warrant requirement of a security.

8.28 **Finding:** The Planning Board makes the following mandatory findings in accordance with Section 6.2 of Article 17 of the General Bylaw. The EARTH REMOVAL OPERATION as conditioned herein:

- Is in conformance with the procedures, standards and conditions contained herein;
- Is able to be conditioned in a manner consistent with the purpose and intent of this Bylaw;
- Will not be detrimental or injurious to abutting properties, neighborhoods, Town amenities or ways utilized in the transport of EARTH from the SITE;
- Provides sufficient mitigating measures to address any adverse impacts to ENVIRONMENTALLY SENSITIVE AREAS;
- Will result in no redirection or increase in rate and volume of existing surface water runoff onto abutting or downstream properties and ways;
- Provides for safe vehicular and pedestrian passage and circulation on public and private ways;
- Will result in no SEDIMENTATION beyond the boundary line of the SITE;
- Will comply with all requirements of EARTH Removal Rules and Regulations, unless specifically waived by the PERMIT GRANTING AUTHORITY for good cause, and all other applicable requirements of this Bylaw; and all other applicable permits for the proposed use have been applied for.

8.29 **Condition** - All expenses for construction inspections, recording and filing of plans and documents shall be borne by the Petitioner.

8.30 **Condition** – Prior to the issuance of an occupancy permit, the Applicant shall submit an as built plan showing all site infrastructure, including appurtenant drainage structures.

8.31 **Condition** - Exterior construction activity related to the Erosion Control Special Permit and Site Plan Approval work as conditioned herein shall take place only between the hours of 7:00 a.m. and 5:00 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.

- 8.32 **Finding** - This Decision applies only to the requested Special Permits. Other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction, shall not be assumed or implied by this Decision.
- 8.33 **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.
- 8.34 **Condition** - The Special Permit granted by this decision shall not take effect until a copy of the decision has been recorded, at the owner's expense, in the Registry of Deeds and duly indexed or noted on the owner's certificate of title. 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 and the Planning Board.
- 8.35 **Condition** - This Special Permit shall lapse on September 13, 2018, if a substantial use has not commenced, except for good cause.


9. 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.

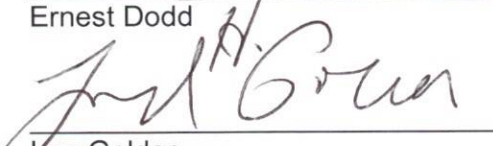
Witness our hands this 13th day of September, 2016


Lori Clark


Stephen Quinn


Ernest Dodd


Margaret Costello


Len Golder

Received and Filed
Volume II, Page 608


Linda Hathaway, Town Clerk

September 15, 2016
Date

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

Linda Hathaway, Town Clerk

Date