

## Valerie Oorthuys

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**From:** Leigh Hilderbrandt <lhilderbrandt@gmail.com>  
**Sent:** Monday, March 6, 2023 6:26 AM  
**To:** Valerie Oorthuys  
**Cc:** selectboard  
**Subject:** Re: Response to Request for Zoning District Boundary Amendment  
**Attachments:** 196GreatRoad\_02.24.23.pdf; 194 Great Road - Land Court Judgement 1995 Bk 2532 pg 296.pdf; zoning\_bylaw\_thru\_may\_2022.pdf; Response to PB 3-6-2023.pdf

Dear Stow Planning Board,

First, I'd like to acknowledge that I recognize that Board members are volunteers, so I appreciate your time. Years ago, when I asked about the business zoning of my residential property, I was initially dismissed. Then, I was told that the boundaries and business-zoned residences would be addressed during the zoning revisions. I have been patient throughout the process, which has taken years, offering occasional reminders to the Planning Board about my concerns, especially as they relate to the abutting business that has had repeated and longstanding noncompliance issues that have impacted my property, the Lower Village, and the Town overall.

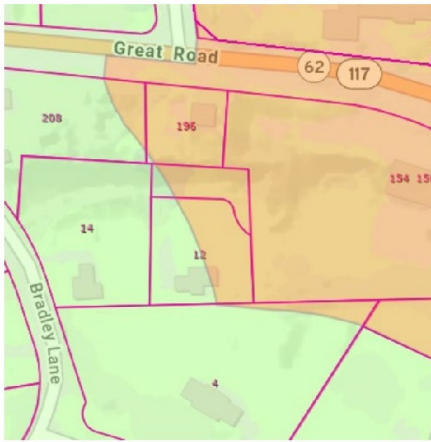
I am very disappointed and saddened by the news delivered in the letter from the Planning Board, dated February 24. I cannot understand why the Planning Board would want to have a historical, single-family residential property in the Business District. It makes no sense. It disheartens me to realize that there's apparently little interest in protecting and preserving one of the oldests homes in the Town. Deed searches reveal that the home dates back to 1690 when Deliverance Wheeler purchased the land from one of the twelve original Stow settlers, Joseph Freeman, lot #9. Deliverance Wheeler was a prominent member of the community and the church. He scouted out the location for the second Meeting House and helped build it. His father Capt. Thomas Wheeler signed several petitions involving the formation of Stow before King Philip's War. His son, also named Deliverance, was the first paid schoolmaster for the Town before schoolhouses had even been built. The home was owned by two additional prominent families of Stow through the mid-1800s—the Conants and the Brooks. The Wheelers, Conants, and Brooks families also owned 208 Great Road. The Brooks owned 194 Great Road as well, which was the abutting property that was demolished in 1989. (It was actually dismantled and moved to Connecticut, so apparently it wasn't as in poor condition as the Town was led to believe when the Special Permit to demolish it was requested.)

Here are my questions and thoughts about the letter, point by point.

1. Could the Planning Board please explain the reason for being "disinclined to alter the district boundary to include 196 Great Road within the Residential District?" What's the rationale?

According to the zoning bylaw, under Section 3 - Use Regulations, 3.2, "The Residential District is intended as a district for typical rural, single-family residential and non-commercial uses" and 3.3 "The Business District is intended to meet local needs for retail goods and services primarily within a BUILDING." Clearly, my home falls within the intended use of the Residential District not the Business District. My home is and always has been a typical rural, single-family residential dwelling and does not provide retail goods or services. Therefore, I respectfully request that you reconsider your decision and include my property in the Residential District as I have proposed or not change the boundaries at all. At the Planning Board's February 28 meeting (when addressing the potential cannabis business), it was stated that the Select Board generally doesn't consider single-property requests. If I approach the Select Board about the zoning of my property, I want the neighboring three split-zoned properties to be part of my request to increase my chances of a favorable outcome since it would be four residential properties that are involved, not just my own.

The Planning Board's proposal for new district boundaries singles-out my property by excluding it from the Residential District, which would leave it as the only single family, owner-occupied, residential dwelling on the south side of Great Road in the Lower Village Business District. How does the Board reconcile that?



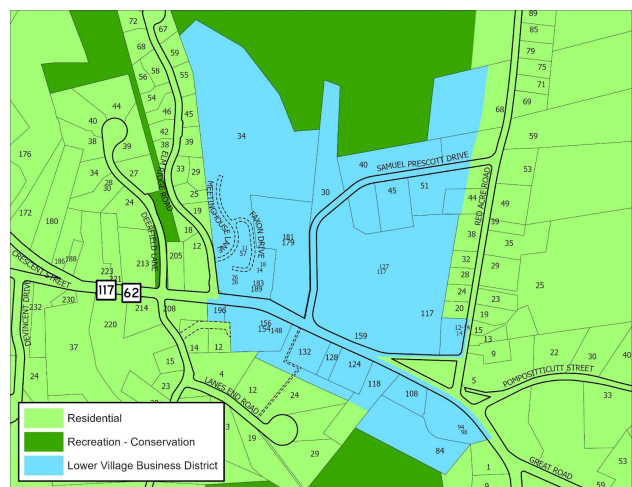
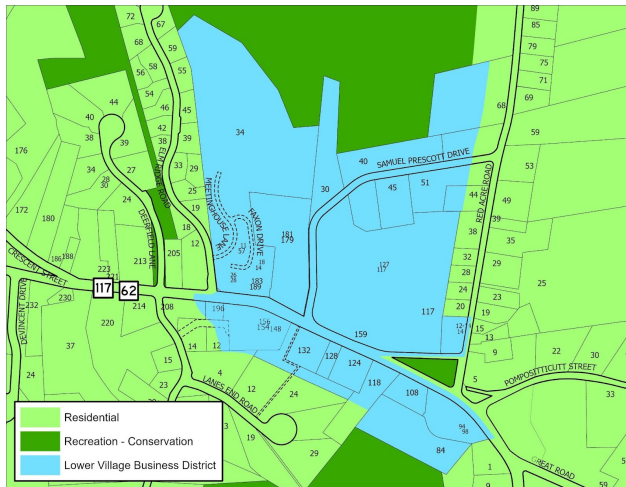
*Current Zoning District Boundary*

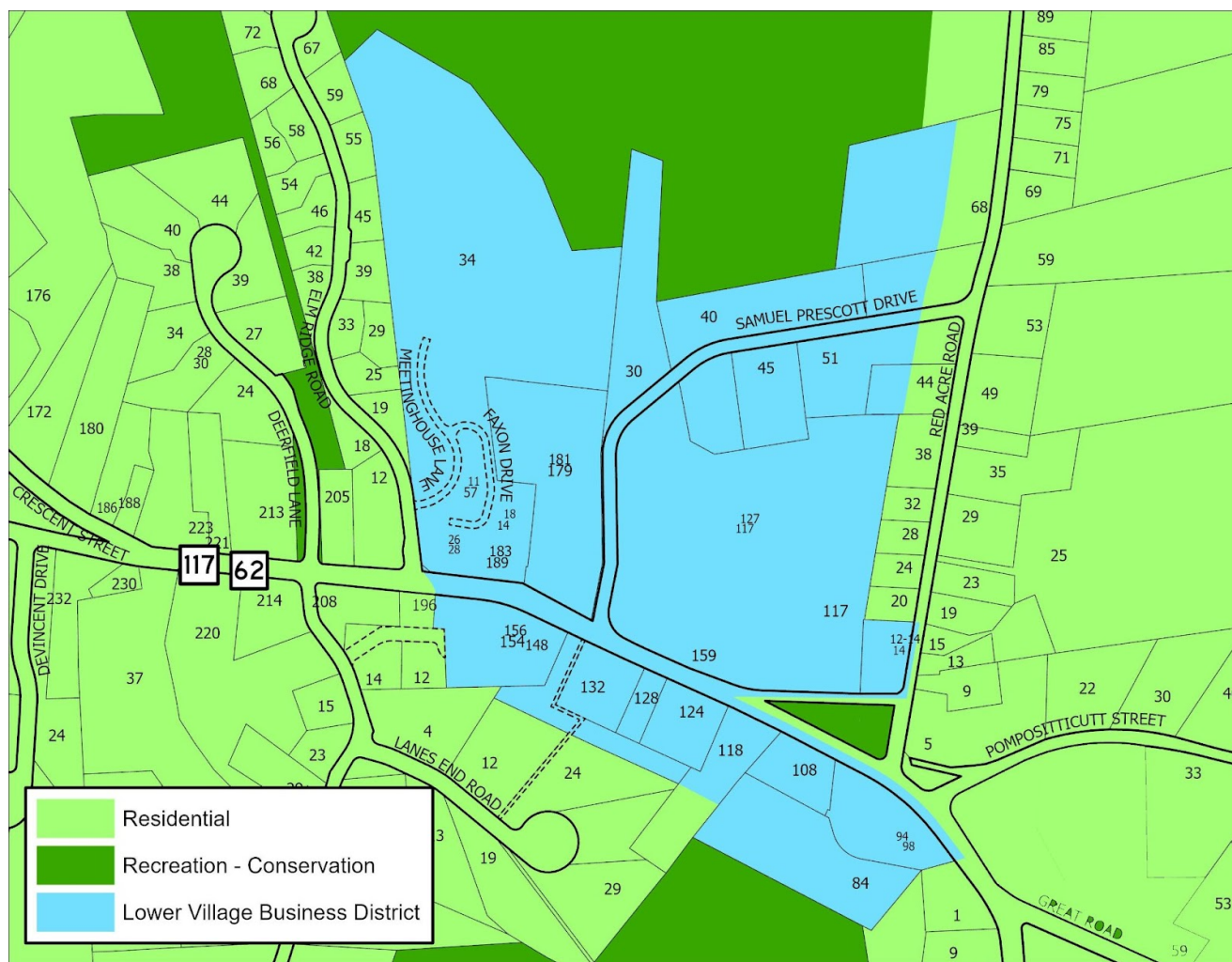


*Proposed Zoning District Boundary*



*Counter Proposal for Zoning District Boundary*





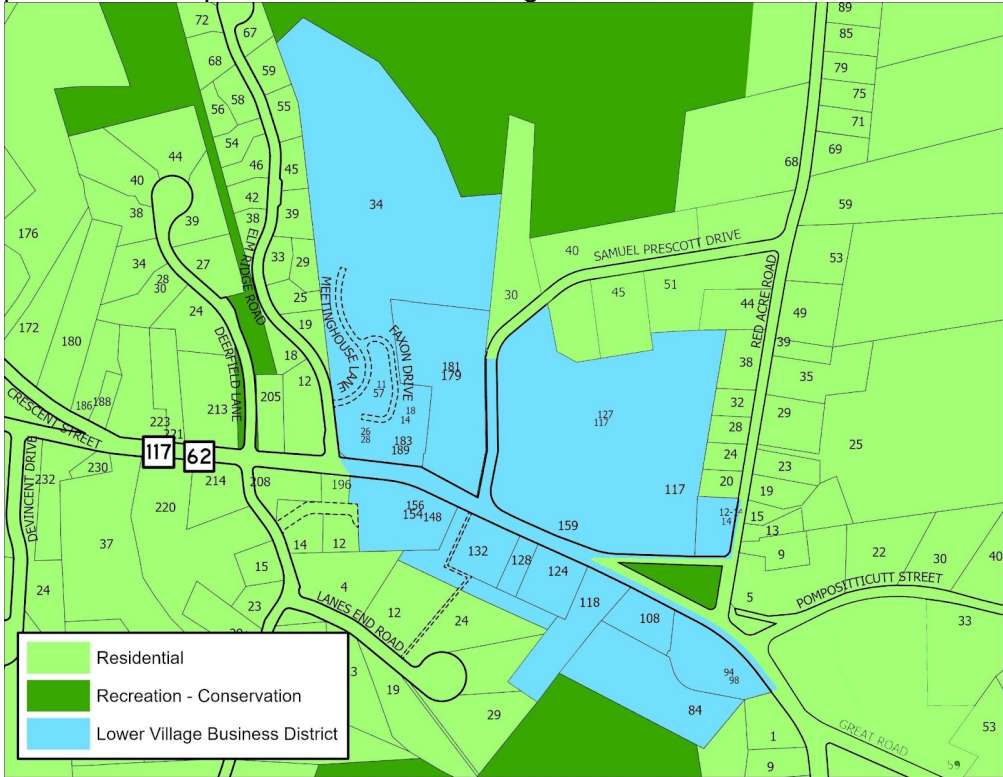
Counter Proposal for Zoning District Boundaries

'2. I've mentioned Section 2.3.3 of the bylaw to the Board in the past because I had never seen discernable dimensional figures on current zoning maps that are online or posted at the Town Hall. This is the first time that anyone has produced anything with measurements. Even though split-zoned parcels are allowed, the arbitrary dimensions are inconsistent with dimensions used elsewhere in the District. The District boundaries result in nine split-zoned properties in the Lower Village, including five properties on the south side of Great Road: 196 Great Road (the southwest corner is in the Residential District), 208 Great Road, 12 Bradley Lane, 4 Lanes End, 118 Great Road; and four properties on the north side of Great Road: 44 Red Acre Road (built 1960), 68 Red Acre Road (built 1920), 51 Samuel Prescott Drive (built 1958), and vacant land on northeast side of Samuel Prescott.

When the Districts were established in 1968, numerous pre-existing residential homes on small lots were mis-zoned, split-zoned, moved, or demolished to make room for business development. In addition to my home, other existing single family residential properties that are currently zoned as Business include 30, 40, 45, and 51 Samuel Prescott Drive. All were built PRIOR to the creation of the business district, built in 1830, 1900, 1965, and 1958, respectively. According to the deed, 0 Samuel Prescott Drive, which is vacant land located on the south side of Samuel Prescott Drive, was purchased in 1965 as part of the "Red Acre Subdivision," three years before the Business District was created in 1968. Clearly, the land was purchased for residential use. While those properties were zoned for business, the single family homes at 20, 24, 28, 32, and 38 Red Acre Road, which are located on the west side of Red Acre Road were zoned correctly as Residential. They were built in 1925, 1920, 1925, 1930 and 1952, respectively. Again, all of the before mentioned single-family homes were pre-existing residential properties at the time that the Districts were created and yet they weren't all zoned the same way. Meanwhile, there was undeveloped land on larger lots throughout Stow in 1968. The determination of which single family properties were or weren't



included in the District and which ones were split-zoned is glaringly inconsistent. The fact that some of the homes had just been built as part of the Red Acre subdivision and others were historical makes that determination to be zoned for business even more disconcerting and circumspect. If the proposed District zoning were to match the intended use of the parcels, the map would look like the image below.



*Zoning Districts if Zoned for Intended and Current Use*

3. You misunderstood my point about the Land Court Judgement. I never assumed that boundaries were amended through the Land Court Decision. On the contrary, since the Land Court Judgment referred to the “abutting property in the Residential District” AND the current Zoning Bylaws state that the Zoning Map was revised on May 1, 1995, I had made an incorrect conclusion that the district zoning may have been changed in 1995 without regard to the judgment’s decision that the Vacant Area provide an increased buffer to the abutting property. While I concede that my property has never technically been within the Residential District, it has been a residential property for over 300 years, predating the creation of the Districts by centuries.

My home was the only remaining residential property that abutted the demolished dwelling at 194 Great Road, so it is obvious that it’s my home that the Land Court was referring to when mentioning “the abutting property in the Residential District.”

4. The Land Court decision expressly states, “the now vacant area formerly occupied by the dwelling demolished pursuant the demolition permit set forth above (“the Vacant Area”) will remain vacant and will provide an increased buffer to the abutting property in the residential district unless the permit is further modified or a subsequent Special Permit is issued. **The vacant area shall be indicated on the plan** (emphasis added), and the plan as modified shall be filed with the Planning Board and the Zoning Board of Appeals, forthwith.” The judgment goes on to say, “The petitioner shall file an As Built Plan of the site with the Planning Board and the Building Inspector within three (3) months of completion of the modifications authorized herein, **clearly showing the Vacant Area** (emphasis added), all existing and newly constructed structures, buildings and additions.”

To date, I have not located any documents that indicate that the permit in question was further modified, that the work was completed and an As Built Plan was submitted, that subsequent Special Permits have been applied for where conditions and findings were met before expiring, or that the Vacant Area was indicated on any plans that have been submitted, as was specifically stated in the judgment. Considering the fact that the Planning Board were the defendants in the case, one would think that the Board would want to honor the decision that the Vacant Area serve as an increased buffer and see it enforced, regardless of the districts, or that they would have brought the error in wording to the attention of the Land Court and requested an amendment.

While I have not found plans that include the Vacant Area, per the Land Court judgment, I have found several documents that indicate that the original and current business owners of 148-156 Great Road repeatedly let Special Permits expire without performing the work, were out of compliance with multiple bylaws, and that cease and desist orders have been issued for doing unpermitted work on more than one occasion.

5. I stand corrected in regards to the table in Section 4.4 Footnote and 7.7.41. However, regardless of what district it is in, as previously stated, my home is and has always been a residential dwelling. It is not a business. If my home is being kept in the Business District so that the abutting business doesn't need to have a buffer, that shows extreme favoritism that not only favors the business owner over a resident, but places the business' convenience over resident safety, security, and privacy. That is in direct opposition to the bylaw's stated purpose "to protect the health, safety and general welfare of present and future inhabitants." Purposely zoning a residence as a Business in order to bypass bylaws like buffer requirements completely defeats the purpose of those bylaws existing in the first place. There should be a consistent standard, not loopholes and exceptions that can be swayed by favoritism or personal opinion.

I would like the Board to recognize and understand that buffers are not just about aesthetics and reducing noise and light pollution. Homes and their inhabitants are put at risk for break-ins and vandalism when passers-by have clear visibility and easy access to residential properties. Buffers enhance security and reduce risks by providing physical and visual barriers.

Section 7 of the bylaw addresses Parking Regulations and 7.7 addresses Off-Street Parking and Loading Area Design Requirements. 7.7.4 "Perimeter Landscaping Requirements: All parking areas with more than five (5) spaces and all loading areas shall be bordered on all sides with a minimum of a ten (10) foot wide buffer strip on which shall be located and maintained appropriate landscaping of suitable type, density and height to effectively screen the parking area." 148-156 Great Road does NOT have a ten (10) foot buffer or perimeter landscaping on all sides. Any landscaping that once existed has not been maintained. While the current Special Permit includes conditions and plan modifications around perimeter landscaping, I have seen little evidence that those conditions will be met before the permit expires in May 2023. Also, according to the bylaws 7.4 Off-Street Loading Areas, "Loading areas shall be located at either the side or rear of each BUILDING and shall be designed to avoid traffic conflicts with vehicles using the site or vehicles using adjacent sites." As I have mentioned at past Board meetings and was even confirmed by representatives of the business, 148-156 Great Road receives their deliveries in the FRONT parking lot, which violates the current bylaw.

6. I suspect that the accumulating fines will only disincentivize the owners of 148-156 Great Road from doing the work that's necessary, especially since they previously cited prohibitive costs as a reason for being unable to meet conditions when they tried to withdraw their most recent Special Permit. Personally, I'm not supportive of creating further financial burden for them. I just want them to fix the issues, and for me to have the same buffer protections for my property that other abutters that are located behind the business have simply because they're lucky enough to be zoned as Residential District.

Some final comments...

In addition to researching the deeds and the family histories of the owners of my home dating back to 1690, I have spent countless hours landscaping and restoring the property to a more natural state with shade trees and perennial and vegetable gardens that emulate the sustainable gardens of colonial villages and serve as a habitat for wildlife and pollinators. During my gardening and landscaping projects, I have made some archaeological discoveries, including two indigenous artifacts—a perfect arrowhead and an ax head, as well as a variety of pieces of pottery, porcelain, and iron. The First Period home and the property are small. Due to subdivisions that predate the zoning bylaw that established minimum house and lot sizes, the 784 square foot home is situated on the front east corner of a 10,011 square foot lot (.23 acres). Being small limits its use but also provides unique and affordable housing, as the majority of homes that once existed in the Lower Village along Great Road would have if they had not been demolished or repurposed when the Business District was created. Additionally, the historical stone wall that forms the front property line along Great Road and the natural geographical feature of the ridge and steep slope that form the rear property line are conservation resources that also limit its use. I love my home, its rich history and its environmental features. I plan to live here until I die, which I hope and expect to not happen for another 30-40 years. Even then, when the time comes, I have provided instructions to my beneficiaries to only sell it as a residential home or convert it to a conservation and historical preservation area. Considering its continued use as a residential

dwelling for over 330 years, its historical and cultural significance, and its conservation resources, it's my continued assertion that it should be zoned in the Residential District in order to protect and preserve it.

My position is supported by the zoning bylaw Purpose, listed in Section 1.2, "**to protect the health, safety and general welfare of present and future inhabitants**, including but not limited to the following purposes: **to preserve the environmental resources of the Town**; **to maintain open spaces** by recognizing the concern for irretrievable loss of farm, wetlands and woodlands while respecting the rights of landowners; **to encourage the most appropriate use of land through a proper balance of residential, commercial and industrial designations**; **to preserve the historical and cultural characteristics of the Town**; **to achieve housing choices and a range of housing costs**; and **to induce its citizens to remain in the community, thus providing a sense of history and continuity**" (emphasis added).

While my primary concern is my own property, I also have serious concerns about all of the business zoned residences and split-zoned properties in the Lower Village Business District. I think that now is an opportune time to right a wrong. While there is no way to bring back the homes that were destroyed for business development, I advocate for the boundaries to be redrawn so that ALL single family homes are zoned as Residential per their original, continued, and current use, which aligns with the stated intention of the purpose of the districts, according to the bylaw. In addition to the buffer issues that I'm concerned about, appropriately zoning the properties will likely come into play if the Town ever decides to change the tax rates based on the zoning. Whether it's a matter of buffers or taxes, residential properties should not be treated differently from each other just because they were arbitrarily drawn into the wrong districts. Similarly, buffers shouldn't be different just because a dwelling is beside a business as opposed to being behind it.

Again, I respectfully request that the Board reconsider the decision to exclude 196 Great Road from the Residential District as it's contradictory to the intention of the Districts, especially considering its continued use as a residential property and its limitations, as well as its historic, cultural, and conservation resources.

Thank you for your time and consideration,

Leigh Hilderbrandt  
196 Great Road

Cc Select Board

On Mon, Feb 27, 2023 at 1:44 PM Leigh Hilderbrandt <[lhilderbrandt@gmail.com](mailto:lhilderbrandt@gmail.com)> wrote:  
Hi, Valerie-

I wish I could say that I appreciate your email, but I have to express my complete dismay at why my 320 year old home is still being included in the Business District. Town representatives often cite the desire to preserve the rural, historic character of Stow and yet, one of the oldest homes in the Town is being put at risk because of being zoned for business.

This decision allows a historically noncompliant business owner to benefit by not having to maintain a buffer between districts while simultaneously posing a safety and privacy concern for the residential property owner.

I would love to know the reasoning behind this decision. How does the town benefit by this?

- Leigh

On Mon, Feb 27, 2023, 11:32 AM Valerie Oorthuys <[planning@stow-ma.gov](mailto:planning@stow-ma.gov)> wrote:

Hi Leigh,