



Valerie A. Moore

Direct Line: (617) 439-2233

Fax: (617) 310-9233

E-mail: vmoore@nutter.com

February 6, 2023

121537-1

Via E-Mail

Mark Jones, Chair
Stow Zoning Board of Appeals
Town Building
380 Great Road
Stow, MA 01775

Re: Stow Acres- Proposed Maintenance Building

Dear Members of the Zoning Board of Appeals

Nutter McClennen & Fish LLP represents Black Swan Management, LLC with respect to its proposed maintenance building. The Stow Acres golf course is a legal, pre-existing non-conforming use within the Residential zoning district. Stow Acres seeks the Board's approval for the construction of a new maintenance building pursuant to section 3.9.6 of the Stow Zoning By-law. Below, we set forth each applicable standard in the Stow Zoning By-law and the project's compliance with that standard.

3.9.1.1 It shall comply with the parking requirements of the Parking Section of this Bylaw:

The proposed Project maintains the total number of parking spaces on site. While some spaces will be removed where the new building will be constructed, new ones will be striped on existing paved areas elsewhere on site. Because the maintenance building is a replacement of existing maintenance buildings and does not drive attendance at the golf course itself, it will not increase the parking demands associated with the golf course. Accordingly, this standard is met.

3.9.1.2 It shall comply with the SIGN section of this Bylaw;

No signs are contemplated for the proposed building. Accordingly, this standard is met.

3.9.1.3 It shall comply with the General Use Regulations section of this Bylaw;

The General Use Regulations are met because the building will be constructed in accordance with the state building code (3.8.1.1); The proposed building will not result in offensive odors, dust or smoke at the property line (3.8.1.2); the noise requirements of the by-law will be met because the building is a replacement of the existing maintenance buildings and will thus not result in a change to the noises associated with the operation (3.8.1.3); no heat, glare, or vibration, or radiation will be discernible from outside the structure (3.8.1.4); and the exterior

February 6, 2023

Page 2

lighting will not shine on adjacent properties or towards any street in such a manner as to create a nuisance or hazard; the Project complies with the screening, surfacing, parking and signs requirement in the Zoning By-law (3.8.1.6); the Project shall comply with all Board of Health requirements concerning water supply and waste disposal (3.8.1.7); the Project is not a scientific use (3.8.1.8); pre-development surface water runoff rates and volumes shall not be increased and pre-development erosion and sedimentation rates shall not be increased (3.8.1.9); the Project shall comply with all erosion control requirements (3.8.1.10).

3.9.1.4 No parking, BUILDING or outdoor storage facility of materials or products shall be closer than 35 feet from the side or rear LOT line, nor closer than 50 feet from the STREET LINE;

As shown on the site plan, the proposed new maintenance building is 50' from the street line and is 35' from the closest side lot line. Accordingly, this standard is met.

3.9.1.5 Parking and outdoor storage of materials or products shall be screened from the view of abutting properties and the view from public ways by vegetative screens, opaque fencing or topography; and

Any outdoor storage of materials will be screened from abutting properties by existing vegetation, which will be enhanced with additional plantings or a fence as required and the proposed new parking spaces will be screened by existing vegetation from public ways.

3.9.1.6 There shall be sufficient space and provision on site for the maneuvering of vehicles so as to allow loading and unloading of materials and products without impeding the flow of traffic along public ways or blocking pedestrian sidewalks, paths and rights of way.

All access is internal to the site, there will be no impediment of traffic along public ways or blocking pedestrian sidewalks, paths, and rights of way.

3.9.6.1 As provided in G. L. c. 40A, sec. 6, a lawfully preexisting nonconforming use and/or structure, ... may be reconstructed, altered or extended only if:

1. said reconstruction, alteration or extension itself conforms with all the provisions of the Zoning Bylaw;

As shown on the site plan, the proposed new maintenance building meets the dimensional requirements of the Zoning By-law. Accordingly, this standard is met.

February 6, 2023

Page 3

2. there is a finding by the Board of Appeals that such reconstruction, alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use;

The proposed new maintenance building replaces several existing, smaller maintenance buildings. Accordingly, it does not represent an expansion of operations and is not substantially more detrimental to the neighborhood than the existing nonconforming use. Additionally, the proponent has proposed changes to the coloring of the proposed building to make it more attractive to the neighborhood. The proposed maintenance building sits on the site of existing parking spaces, accordingly, it will be a minor change to existing conditions and will not be substantially more detrimental to the neighborhood.

3. that said extension, alteration or change is in accordance with the guidelines noted below; and

The project's conformance with the guidelines is noted below.

4. that the Board of Appeals grants a special permit as provided in Section 9.2.

1. the Board of Appeals shall encourage extensions, alterations or changes to nonconforming structures and uses toward greater, if not complete, conformance with the provisions of the Zoning Bylaw and to reduce the degree of nonconformity;

The proposed maintenance building conforms to the dimensional criteria of the Zoning By-law. Additionally, although Stow Acres is a legal pre-existing non-conforming use, the Zoning By-law has since been modified to allow for golf courses within residential zoning districts. Accordingly, the proposed maintenance building does not increase the degree of nonconformity.

2. the Board of Appeals shall not encourage the expansion of a nonconforming structure or use as measured by either the: a) amount of floor space or land area used, or b) volume of activity, including but not limited to an increase in the intensity of use and/or a change in the nature or purpose of the use;

The proposed maintenance building is a replacement of several existing maintenance buildings and is proposed on the site of several existing parking spaces. Accordingly, it does not increase the amount of floor space or land area used and does not change the volume of activity associated with this longstanding use.

3. the Board of Appeals shall prohibit the expansion of nonconforming structures and uses unless there will be no demonstrable adverse impacts on abutting properties and those

February 6, 2023

Page 4

properties that generally characterize the neighborhood or locus within which the expansion is sought, and;

The proposed new maintenance building replaces existing maintenance buildings and accordingly will have no adverse impacts on abutting properties as it will not change the activities conducted as part of the existing use. As noted above, the proponent has changed the colors of the building to make it more aesthetically pleasing and the proposed building is well screened from the nearest abutting properties by existing vegetation.

4. the Board of Appeals shall not encourage the expansion of nonconforming structures and uses if the expansion will negatively impact the Town of Stow's ground or surface waterbodies.

The proposed maintenance building will have no negative impact on surface waterbodies, as all storage will be conducted inside the building and a proposed oil/sand separator is included, and will have no negative impact on groundwater as the project complies with all stormwater requirements by reducing the total amount of impervious coverage.

9.2.6 Mandatory Findings by Special Permit Granting Authority - The Special Permit Granting Authority shall not issue a special permit unless without exception it shall find that the proposed use and development:

9.2.6.1 is in harmony with the purpose and intent of this Bylaw;

As noted above, although Stow Acres is a legal pre-existing nonconforming use, the Stow Zoning By-law has since been updated to permit golf courses in residential districts. Accordingly, the proposed maintenance building for the golf course is in harmony with the purpose and intent of the Zoning By-law.

9.2.6.2 will not be detrimental or injurious to abutting properties or ways, the neighborhood, community amenities or the Town of Stow;

The proposed maintenance building will not be detrimental to abutting properties or ways, the neighborhood, community amenities or the Town of Stow because it is a proposed maintenance building replacing several existing buildings used for maintenance and thus is not an expansion of the existing use and the proposed building is well screened from abutting ways and properties.

9.2.6.3 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



February 6, 2023

Page 5

BUILDINGS in the immediate vicinity that have functional or visual relationship to the proposed use;

The proposed building replaces an existing paved parking area and several existing maintenance buildings. Additionally, the proposed building will be red in color and will thus blend harmoniously with the existing golf course use and surrounding area.

9.2.6.4 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;

As noted in the Applicant's response to comments, the Applicant has removed the proposed curb cut associated with the maintenance building, thus precluding any impact on town ways. Additionally, the Applicant has changed the color of the proposed building in order to address the Board's comments.

9.2.6.5 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 building will not result in pollution or contamination as project complies with all stormwater requirements by reducing the total amount of impervious coverage and all storage will be contained within the building and will have an appropriate separator installed.

9.2.6.6 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. Reserve capacity calculations are to be done by a registered professional engineer using accepted methods of traffic analysis and shall include both projected growth in traffic during the period of development and projected traffic from other uses and developments which have applied for approval under the Zoning Bylaw prior to the close of the public hearing;

As the proposed building replaces the existing maintenance buildings, it will not result in any additional vehicle trips.

9.2.6.7 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;

As the proposed maintenance building replaces existing maintenance buildings, it will have no impact on Town services whatsoever.



February 6, 2023

Page 6

9.2.6.8 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 maintenance building and surrounding paved area complies with all stormwater requirements by reducing the total amount of impervious coverage, accordingly there will be no redirection of surface water runoff to abutting parcels or downstream properties.

9.2.6.9 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 maintenance building will not result in the removal of soil from the lot.

9.2.6.10 will provide adequate provision for pedestrian traffic; and

The proposed maintenance building is not expected to generate pedestrian traffic.

9.2.6.11 will comply with all requirements of Site Plan Approval and all other applicable requirements of this Bylaw.

The Applicant has provided all required information for the Board to find that the requirements of site plan approval are met for the proposed maintenance building.

Very truly yours,

Valerie A. Moore

VAM:

cc: Peter Brown

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