



Town of Stow  
**BOARD OF APPEALS**  
380 Great Road  
Stow, Massachusetts 01775-2127  
978-897-2784

June 7, 2021

**NOTICE and DECISION**  
**156 Barton Road**  
**SPECIAL PERMIT**

**Applicant:** Samuel Hurwitz

**Owner:** Samuel Hurwitz and Sandra B. Hurwitz

**Address:** 63 Oakland Avenue  
Newton, MA 02466

**Premises Affected:**

156 Barton Road, Stow, shown on Stow Property Map Sheet U-2 as Parcels No. 15 and 58 containing 49,009+/- sq. ft.

**Property Deed:** Middlesex Registry of Deeds Book 69571 Page 4

**Special Permit Requested:**

A special permit is sought under G.L.c.40A, s.6 and Stow Zoning Bylaw Section 3.9 (Non-Conforming Uses and Structures), to allow expansion of a dwelling on a pre-existing, nonconforming lot.

A duly posted public hearing was held online via Zoom Web Conferencing Service on June 7, 2021. Zoning Board of Appeals Members, Mark Jones, William Byron, Ernest Dodd and Associate Members Andrew DeMore and David Hartnagel were present throughout the proceedings.

The following documents were submitted for the Board's consideration:

1. Application comprising of the following documents:
  - Application Form
  - Project Narrative
  - Certified List of Abutters
  - Property Deed
  - Application Fee

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- Site Plan entitled “Proposed Site Plan, 156 Barton Road, Stow, Massachusetts”, dated April 30, 2021, prepared by Dillis & Roy Civil Design Group.
- Designer Foundation Plan entitled “The Hurwitz Residence, prepared by Preston Design, Inc.

**Findings:**

1. The property is located in the Residential District. A portion of the property which abuts Lake Boon is located in the Flood Plain Overlay District
2. Parcel 15, as shown on the Town of Stow Assessors Map Sheet U-2 is pre-existing nonconforming as to area and frontage. The pre-existing nonconforming lot is 20,250+/- sq. ft. with 141.44-feet of frontage on Barton Road.
3. The Applicant owns parcels 58 and 15 as shown on Stow Property Map Sheet U-2 in common, which are bisected by Barton Road, a private road. The Board finds that, in accordance with M. G. L., Chapter 40A, Section 6, the two parcels (58 and 15) held in common ownership are merged as one parcel for zoning purposes.
4. In its decision dated May 4, 2020, the Board granted a special permit to construct a garage as an accessory structure to the single-family dwelling located on Parcel 15.
5. Two structures exist on the property, the primary dwelling and a shed. The dwelling has a total living area of 1,184 sq. ft. and the shed is approximately 100 sq. ft. the site also includes an existing 354 sq. ft. patio and a stone wall with an approximate length of 88 feet which runs along the top of an existing slope parallel with the edge of Lake Boon.
6. An existing well is located 25 feet from the primary dwelling.
7. The southerly side of existing dwelling encroaches into the required 25-foot required setback requirement of the current Zoning Bylaw.
8. The Applicant proposes to remove all existing structures on the site and construct a two-story dwelling with an attached garage. The total living area of the proposed dwelling is approximately 2,400 sq. ft. The proposed attached garage is 456 sq. ft.
9. The proposed dwelling and attached garage meet the required front, side and rear setback requirements of the current Zoning Bylaw.
10. During the Public Hearing, the Applicant’s engineer confirmed that the proposed dwelling and attached garage meet the height requirements of the current Zoning Bylaw.
11. The proposed dwelling is located 1-foot away front the existing well and will require a variance to the Town of Stow Well Regulations. During the Public Hearing, the Applicant indicated that they are scheduled to meet with the Board of Health to request the variance.
12. The proposed dwelling is located within 100 feet of Lake Boon and is therefore subject to the Conservation Commission’s jurisdiction. During the Public Hearing, the Applicant’s engineer advised that they will file a Notice of Intent Application with the Conservation Commission.
13. The Board finds the proposed use and construction is not substantially more detrimental than the existing nonconforming use and does not substantially intensify or result in any additional nonconformities.

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The subject lot was created in 1956 at which time the lot area requirement was 20,000 sq. and the frontage requirement was 100-feet.

The proposed dwelling meets the required front, side and rear setback requirements of the current zoning bylaw and the proposed construction is consistent with existing residences on Barton Road.

14. The Board makes the following mandatory findings as required by Section 9.2.6 of the Zoning Bylaw:

The Board finds the proposed use and development, as conditioned herein:

- a. is in harmony with the purpose and intent of the Zoning Bylaw;
- b. will not be detrimental or injurious to abutting properties or ways, the neighborhood, community amenities or the Town of Stow;
- c. 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;
- d. includes sufficient mitigating measures for any adverse effects noted in reports from town boards and agencies, reports from consultants and public hearings;
- e. will result in no pollution or contamination of the GROUND WATER, a GROUND WATER recharge area, a well, pond, stream, watercourse or inland wetland;
- f. will result in no significant effect on the "level of service" (LOS) of the town roads or intersections of these roads;
- g. will result in no significant effect on level of service for any service provided by the Town;
- h. will result in no redirection of existing surface water runoff such that there would be material impact on abutting parcels or downstream properties;
- i. will result in no transport by air or water of erodible material beyond the boundary line of the LOT;
- j. will provide adequate provision for pedestrian traffic; and
- k. will comply with requirements of Site Plan Approval and all other applicable requirements of this Bylaw.

Pursuant to Massachusetts General Laws Chapter 40A, after referring to the application for Special Permit, the following decision has been made by the Stow Board of Appeals as hereby certified after the public hearing.

#### **VOTE**

The Board, by roll call vote of the five members present throughout the proceedings (Mark Jones, William Byron, Ernest Dodd and Associate Members Andrew DeMore and David Hartnagel) **VOTES TO GRANT A SPECIAL PERMIT** to allow removal of the existing single-family dwelling and shed and construction of a new single-family dwelling and attached garage, subject to the following conditions:

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## CONDITIONS

1. The proposed construction shall result in no pollution or contamination of the GROUND WATER, a GROUND WATER recharge area, a well, pond, stream, watercourse or inland wetland.
2. The proposed construction shall result in no redirection of existing surface water runoff such that there would be material impact on abutting parcels or downstream properties;
3. The proposed construction shall result in no transport by air or water of erodible material beyond the boundary line of the LOT.
4. The design and construction shall be essentially in conformance with the Plans submitted with the application.
5. Compliance with other Town Departments, Boards and Commissions is required.
6. The proposed construction shall comply with all applicable requirements of the Zoning Bylaw.
7. Exterior construction activity shall take place only between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday (excluding holidays), and 8:00 a.m. to 12:00 p.m. Saturdays unless specific approval is granted by the Building Commissioner.

The Board has complied with all statutory requirements in the granting of this Special Permit.

Two copies of this decision, together with copies of the application for special permit, site plans, other plans and records, have been filed with the Town Clerk. A detailed record of the proceedings, setting forth the reasons for the decision, shall be filed within fourteen (14) days with the Town Clerk and shall be a public record. Copies of this decision have been or will be mailed to all parties, persons and boards as required by Chapter 40A, Sections 11 and 15.

This Special Permit shall lapse with two (2) years of filing with the Town Clerk unless substantial use or construction has commenced or in the case of a permit for construction or reconstruction, if construction has not begun by such date, except for good cause (Massachusetts General Laws Chapter 40A, Section 9).

This Special Permit 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 Board of Appeals, Town Clerk and Building Inspector.

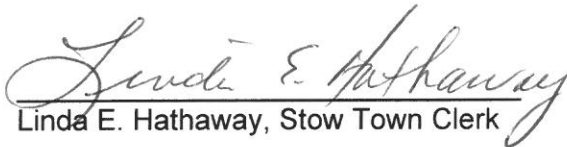
Any appeal from this decision shall be made pursuant to Massachusetts General Laws Chapter 40A, Section 17 and must be filed within twenty (20) days after the decision has been filed with the Town Clerk.

Signed on behalf of and with the permission of the Zoning Board of Appeals.



Ernest E. Dodd  
Zoning Board of Appeals Clerk

June 9, 2021  
Date Received and Filed  
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Linda E. Hathaway, Stow Town Clerk