



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

**August 1, 2022**

**NOTICE and DECISION  
12 Davis Road**

**SPECIAL PERMIT**

**Applicant:** Stephen O’Riorden

**Owner:** Stephen O’Riorden and Theresa O’Riorden

**Address:** 12 Davis Road  
Stow, MA 01775

**Premises Affected:**

12 Davis Road, Stow, shown on Stow Property Map Sheet U-4 as Parcel No. 41A containing 16,498+/sq. ft.

**Property Deed:** Middlesex Registry of Deeds Book 39738, Page 517

**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 construction of house addition on a pre-existing, non-conforming lot.

A duly posted public hearing was held at 380 Great Road and online via Zoom Web Conferencing Service on July 11, 2022. Zoning Board of Appeals Members Mark Jones, Ernest Dodd, David Hartnagel, Andrew DeMore and Associate Member Andy Crosby were present throughout the proceedings.

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

1. Application comprising of the following documents:
2. Application comprising of the following documents:
  - Application form
  - Application Fee
  - Certified List of Abutters
  - Property Deed
  - Project Description

- Plan entitled “Proposed Plot Plan, 12 Davis Road, Stow, MA 01775”, dated April 28, 2022, prepared by Alan Engineering, L.L.C.
- Plan entitled “Locus Map, 12 Davis Road, Stow, MA 01775, dated May 5, 2022, prepared by Alan Engineering, L.L.C.
- Architectural Plans entitled “Construction Set, dated May 4, 2022, prepared by Draudt Design Architects, comprising of the following sheets:
  - T0 - Title Sheet
  - EX-1 - Existing - First Floor
  - EX-2 - Existing - Exterior Elevations
  - EX-3 - Existing Conditions – 3D View
  - A1 - First Floor Plan
  - A2 - Second Floor Plan
  - A3 - Roof Plan
  - A4 - Exterior Elevations
  - A5 - Exterior Elevations & Sections
  - A6 - Building Section
  - A7 - 3D Wireframe View
  - A8 - 3D Wireframe View
  - A9 - 3D Wireframe View
  - S-100 - Second Floor Framing Plan and Partial First Floor Plan
  - S-101 - Roof Framing Plan
  - S-102 - Typical details
  - S-103 – Typical details

**Findings of the Board:**

1. The lot is pre-existing non-conforming as to lot size and frontage requirements of the present Zoning Bylaw.
2. The Applicant proposes to redesign the roof of the existing single-family dwelling to permit better roof drainage and handling of snow. The Applicant also proposes an addition to the front of the existing house and add a room above the existing garage so that the roofline will match the propose new house design.
3. The existing structure (Single Family Dwelling) does not conform to the required 30-foot front yard setback or the 25-foot southerly side yard setback requirement of the present Zoning Bylaw.

The existing single-family dwelling is located 11.6 feet as measured to the closest point to the southerly side property line. The proposed house addition is located 14.5 feet as measured to the closest point of the southerly property line. Therefore, the Board finds the proposed house addition does not intensify the existing non-conforming southerly and front yard setbacks and no variance is required.

The Board finds the single-family dwelling addition, as conditioned herein, will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

4. The existing garage does not conform to the required 25-foot northerly side yard setback. The existing garage as measured to the closest point to the northerly property line is 24.8 feet. The proposed stairway as measured to the closest point to the northerly property line is 20.8 feet. Therefore, the Board finds the proposed stairway increases the existing northerly property line setback nonconformity by 4 feet.

The Board finds the proposed stairway addition, as conditioned herein, will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

5. 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.

#### **VOTE**

Pursuant to Massachusetts General Laws, Chapter 40A, after referring to the application for Special Permit, the Board, by roll call vote of the five members present throughout the proceedings (Mark Jones, Ernest Dodd, David Hartnagel, Andrew DeMore and Associate Member Andy Crosby) **VOTES TO GRANT A SPECIAL PERMIT** to allow construction of a house and garage addition subject to the

following 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 documents and plans on file with the Board.
5. The garage stairway shall not be enclosed.
6. The proposed construction shall comply with conditions set by other Town Departments, Boards and Commissions is required.
7. The proposed construction shall comply with all applicable requirements of the Zoning Bylaw.
8. 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 recording 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

August 5, 2022

Date Received and Filed  
Volume III, Page 860



Linda E. Hathaway  
Stow Town Clerk