



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

August 1, 2022

**NOTICE and DECISION
20 Railroad Ave.**

SPECIAL PERMIT

Applicant: Thomas and Abigail Morgan

Owner: Thomas and Abigail Morgan

Address: 20 Railroad Ave.
Stow, MA 01775

Premises Affected:

20 Railroad Ave., Stow, shown on Stow Property Map Sheet U-07 as Parcel No. 41 containing 10,898+/- sq. ft.

Property Deed: Middlesex Registry of Deeds Book 62141, Page 283

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 two-floor garage 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. The Public Hearing was continued to August 1, 2022 and closed at the conclusion of the August 1, 2022 session. 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:

- Application form
- Certified List of Abutters
- Application Fee
- Project Description

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- Correspondence with the Stow Conservation Commission
- Property Deed
- Survey Plot Plan entitled “Plan of Land in Stow, Massachusetts” showing building, wetland location and proposed addition, prepared for Tom Morgan by Merrimack Engineering Services, dated May 2, 2022
- Architectural Plans entitled “Residence for Mr. and Mrs. Tomas Morgan”, prepared by Fabrizio Caruso AIA, dated March 15, 2022 comprising of the following sheets:
A1- First Floor, Second Floor and Side Elevations
A-2 – Front Elevation, Foundation Plan and Roof Plan
A-3 – Soffit Detail, Typical Section at Interior Colum Typical Wall Section
A-4 – Detail Plan
- Survey Plot Plan entitled “Plan of Land in Stow, Massachusetts” showing building, wetland location and proposed addition, prepared for Tom Morgan by Merrimack Engineering Services, dated May 2, 2022, revised July 25, 2022 and stamped July 5, 2022.

Findings of the Board:

1. The lot is pre-existing non-conforming as to zoning use, lot size and frontage requirements of the present Zoning Bylaw.
2. The lot is located in the Recreation-Conservation District and the Floodplain Overlay District. The existing garage does not conform to the front, side and rear yard setback requirements of the present Zoning Bylaw.
3. The Applicant proposes to remove an existing garage and construct a new two-story garage approximately in the same location.
4. The existing garage is located 6.84 (measured from the front corner) and 6.63 feet (measured from the rear corner from the westerly (side) property line. The proposed garage, as initially presented with the application, is located 6.05 feet from the westerly side property line.
5. During the Public Hearing, the abutter to the westerly side of the property voiced objection to the proposed garage location as it encroaches further into the required setback than the existing garage.
6. In response to abutter concerns, the Applicant submitted a revised Plan, dated May 2, 2022, revised July 25, 2022 and stamped July 5, 2022. The revised plan rotates the proposed garage to be parallel to the westerly lot line so as to maintain the existing 6.84-foot setback and moving it back approximately 3 feet.
7. The proposed garage does not comply with the 100-foot front yard, 50-foot side yard and 100-foot rear yard setback requirements of the present bylaw in the Recreation-Conservation District.
8. The proposed garage, as shown on the July 25, 20022 Plan maintains the existing 6.94-foot westerly side yard setback and further encroaches into the required rear yard setback by 8.69 feet.

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9. The Board finds the proposed garage, as conditioned herein, will not be substantially more detrimental to the neighborhood than the existing nonconforming garage.
10. 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 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 two-story garage 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 the following plans:
 - Architectural Plans entitled “Residence for Mr. and Mrs. Tomas Morgan”, prepared by Fabrizio Caruso AIA, dated March 15, 2022.
 - Survey Plot Plan entitled “Plan of Land in Stow, Massachusetts” showing building, wetland location and proposed addition, prepared for Tom Morgan by Merrimack Engineering Services, dated May 2, 2022, revised July 25, 2022 and stamped July 5, 2022.
5. The proposed construction shall comply with conditions set by 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 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).

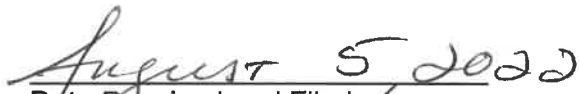
This Special Permit shall not take effect until a copy of the decision has been recorded, at the owner’s expense, in the Registry of Deeds and duly indexed or noted on the owner’s certificate of title. A copy of the recorded decision, certified by the Registry, or notification by the owner of the recording 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.

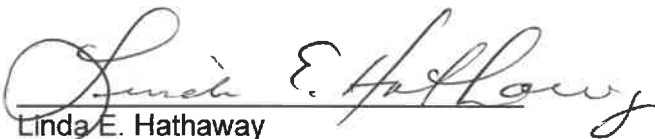
Signed on behalf of and with the permission of the Zoning Board of Appeals.



Ernest E. Dodd
Zoning Board of Appeals Clerk



Date Received and Filed
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Linda E. Hathaway
Stow Town Clerk