



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

**May 3, 2021**

**NOTICE and DECISION**  
**23-25 Hale Road**  
**SPECIAL PERMIT**

**Applicant: Nathan Payne**

**Owner:** Nathan Payne

**Address:** 23-25 Hale Road  
Stow, MA 01775

**Premises Affected:**

23-25 Hale Road, Stow, shown on Stow Property Map Sheet U-5 as Parcel No. 17 containing 29,000+/- sq. ft.

**Property Deed:** Middlesex Registry of Deeds Book 74096, Page 291

**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 a garage, deck and porch to an existing dwelling on a pre-existing, nonconforming lot.

A duly posted public hearing was held online via Zoom Web Conferencing Service on May 3, 2021. Zoning Board of Appeals Members, Mark Jones, William Byron, Ernest Dodd, and Associate Members Leonard Golder 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
- Property Deed Book 74096, Page 292
- Site Plan entitled "Proposed Site Plan 23-25 Hale Road, dated 04/01/2021, prepared by Dillis & Roy Civil Design Group.

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- Architectural Plans entitled "Payne Residence", dated 03/10/21, prepared by Tuck & Tuck Architects, comprising of the following sheets:

A1.0 – Basement Floor Plan Revised

A1.1 – 1<sup>st</sup> and 2<sup>nd</sup> floor Plans Revised

A2.1 – East and South Elevations Revised

A2.2 – West and North Elevations Revised

## 2. Correspondence from Boards and Committees

### Findings:

1. The property is located in the Residential District and the Floodplain Overlay District.
2. Parcel 17, as shown on Town of Stow Assessors Map Sheet U-5 is pre-existing nonconforming as to area and frontage.
3. Access is gained by way of an access right-of-way that extends from Hale Road to the subject property through several abutting properties.
4. Two structures exist on the property.  
The primary residence is a 2,175 sq. ft. 3-bedroom dwelling. The Applicant proposes to add a drive under garage, a raised deck facing the west, and a front porch to the existing 3-bedroom dwelling. The finished floor area of the proposed structure will be 4,145 sq. ft. and an additional 820 sq. ft lower-level garage.  
The second structure is a 410 sq. ft. 1-bedroom cottage. The 1-bedroom cottage is proposed to be maintained in its current configuration with no proposed improvements.
5. Given the lot does not front directly onto Hale Road, the existing house orientation is used to define the front, side, and rear yard setbacks. The existing 3-bedroom dwelling faces to the east and therefore the easterly side is defined as the front yard and the westerly side is defined as the rear yard.
6. The existing 3-bedroom dwelling and proposed additions meet the required setback requirements of the current Zoning Bylaw, and therefore does not result in an increase in nonconformity.
7. The roofline for the proposed addition is lower than the peak of the existing gable roof.
8. The Plan does not indicate the setbacks for the 1-bedroom cottage. As there are no proposed improvements to the 1-bedroom cottage, the Board finds there is no increase in nonconformity.
9. The property is located on a peninsular off Hale Road comprising of 5 lots (21, 35, 23, 27, 32 and 33 Hale Road). The gross area of the residences on the peninsular range from 3,816 gross sq. ft. to 5,880 gross sq. ft. and 1,561 sq. ft of living area to 3,866 sq. ft. of living area.
10. During the Public Hearing, the applicant's engineer noted that the Board of Health approved a 4-bedroom septic system to serve the proposed 3-bedroom dwelling and the 1-bedroom cottage.

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11. The Board finds the proposed use and construction, as conditioned herein, is not substantially more detrimental to the neighborhood than the existing nonconforming use and construction and does not substantially intensify any existing nonconformities.

The lots around Lake Boon have a history of being developed and redeveloped as summer cottages in the late 19<sup>th</sup> century and early 20<sup>th</sup> century. A Zoning Bylaw was not adopted until 1949. The resulting parcels are typically 10,000 sq. ft.± with structures randomly placed on the parcels and a road passing through the lot as either a private way or right-of-way or easement.

The proposed addition is reasonable given it meets the required setback requirements of the current Zoning Bylaw and the proposed 4,125 sq. ft. floor area is consistent with existing residences located on peninsular.

12. A Special Permit was granted by the Zoning Board of Appeals for this property on May 13, 2019 allow construction by razing the existing dwelling and to construct a new single-family dwelling and to relocate a shed. The Board finds the May 13, 2019 was not recorded with the Registry of Deeds or acted upon.

The Board further finds that this special permit supersedes the May 13, 2019 and therefore the May 13, 2019 Special Permit is no longer in effect.

13. An order of Conditions was issued by the Conservation Commission for this property in 2020 to allow construction by razing the existing dwelling and to construct a new single-family dwelling. The Conservation Department advised the applicant should contact the Conservation Commission for a determination whether the revised plan can be approved through a "red line change" to the plans of if a new filing will be necessary.

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;

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- 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 Leonard Golder and David Hartnagel), **VOTES TO GRANT A SPECIAL PERMIT** to allow construction of an addition to a single-family dwelling including a drive under garage, raised deck and front porch, subject to the following conditions:

**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:
  - Site Plan entitled “Proposed Site Plan 23-25 Hale Road, dated 04/01/2021, prepared by Dillis & Roy Civil Design Group.
  - Architectural Plans entitled “Payne Residence”, dated 03/10/21, prepared by Tuck & Tuck Architects, comprising of the following sheets:
    - A1.0 – Basement Floor Plan Revised
    - A1.1 – 1<sup>st</sup> and 2<sup>nd</sup> floor Plans Revised
    - A2.1 – East and South Elevations Revised
    - A2.2 – West and North Elevations Revised
5. Compliance with the terms and conditions set by the Conservation Commission and other Town Departments, Boards and Commissions is required.
6. This Special Permit supersedes the May 13, 2019 Special Permit rendering the May 13, 2019 Special Permit no longer in effect.

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 within 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.



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Ernest E. Dodd  
Zoning Board of Appeals Clerk

May 4, 2021

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

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