



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

March 14, 2022

**NOTICE and DECISION
51 Hale Road
SPECIAL PERMIT**

Applicant: Chris Schuch

Owner: Chris Schuch

Address: 51 Hale Road
Stow, MA 01775

Premises Affected:

51 Hale Road, Stow, shown on Stow Property Map Sheet U-5 as Parcel No. 2 containing 29,185+/- sq. ft.

Property Deed: Middlesex Registry of Deeds Book 69236, Page 89

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 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 September 20, 2021 and continued to October 4, 2021, November 1, 2021, January 3, 2022, February 7, 2022 and March 7, 2022. The Public Hearing closed at the conclusion of the March 7, 2022 public hearing. Zoning Board of Appeals Members Mark Jones, William Byron, Ernest Dodd, 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
- Certified List of Abutters
- Application Fee
- Project Description

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- Plot Plan submitted with the Applicant (no title or date)
- Site Photographs
- Plan entitled Mortgage Loan Plot Plan, prepared by Cabco Consul, dated October 7, 2016
- Building Specifications
- Property Deed
- Abutting Property plot plans
- Sketch plan depicting a 40-foot x 24-foot garage located within the required property line setbacks of the present zoning bylaw – received March 7, 2022
- Sketch plan depicting a 30-foot x 24-foot garage located within the required property line setbacks of the present zoning bylaw – received March 7, 2022

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 existing structure (single-family dwelling) conforms to the front, side and rear yard setback requirements of the present Zoning Bylaw.
3. The proposed garage does not intensify any existing nonconformities.
4. Both sketch plans, submitted to the Board at the March 7, 2022, describing a 30-foot by 24-foot garage and a 40-foot by 24-foot garage conform to the front side and rear property line setback requirements of the present Zoning Bylaw. Therefore, the proposed construction, as conditioned herein, is not subject to a variance as initially requested for a 51-foot by 21-foot garage.
5. During the Public Hearing, the Applicant stated the proposed garage is to be used for storage of four jeeps and equipment related to his snow plowing business and materials for his metal work hobby. The garage will also be used for maintenance of the plow vehicles. Maintenance will be limited to the Applicant's own vehicles.
6. During the Public Hearing abutters raised concern about several existing temporary shelters on the property. The Applicant advised that the proposed garage is intended to replace the temporary shelters which will be removed once the proposed garage is constructed.
7. During the Public Hearing, abutters raised concern about a business being operated on a residentially zoned property, the size of the proposed garage and potential for groundwater contamination resulting from vehicle maintenance.
8. During the Public Hearing, the Applicant advised that he has a residential snow plowing business with five jeeps and plow equipment. One of the five jeeps will be sold thereby limiting the number of jeeps to four. Use of the garage will be limited to storage of equipment and maintenance of the four jeeps used for snow plowing.
9. During the Public Hearing, the Applicant indicated the initial size of the proposed garage 51 feet by 21 feet is necessary to accommodate room for storage and maintenance of the snowplow vehicles and equipment and materials related to his metal work hobby.

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The Board noted concern that a 51-foot by 21-foot garage in the location proposed does not comply with the property line setback requirements of the present zoning bylaw and would not meet the requirements for issuance of a variance.

At the March 7, 2022 session of the public hearing the applicant presented sketch plans for a 30-foot by 24-foot garage and a 40-foot by 24-foot garage, both of which are located on the lot so as to comply with the property line setbacks of the present zoning bylaw.

10. The Board finds the use of the proposed garage complies with the requirements of Section 3.2.17 (Professional Office or Home Occupation) of the Zoning Bylaw:
 - 1) The profession or home occupation is conducted by a resident of the premises;
 - 2) Provided equipment and vehicles are stored inside the proposed garage, the use is incidental to and secondary to the use as a residence;
 - 3) There is no exterior evidence of a non-residential use of the premises except as otherwise permitted in this section;
 - 4) No additional noise, vibration, smoke, dust, odors, heat, glare, unsightliness or other nuisance is produced which is discernible from other properties;
 - 5) There is no public display of goods or wares, and there is no additional exterior storage of material or equipment;
 - 6) One SIGN, not exceeding three (3) square feet, is permitted subject to the provisions of this Bylaw regulating SIGNS;
 - 7) There is no on-street parking permitted for any employee or visitor in connection with such use; and
 - 8) The use does not present a safety or health hazard to the public;
11. 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, William Byron, Ernest Dodd, Andrew DeMore and David Hartnagel) **VOTES TO GRANT A SPECIAL PERMIT** to allow construction of a 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 sketch plans submitted to the Board at the March 7, 2022 session of the public hearing.
5. The proposed garage whether 40 feet by 24 feet or 30 feet by 24 feet, shall meet the setback requirements of the present zoning bylaw.
6. Use of the proposed garage shall be limited to storage of equipment, maintenance of four vehicles used for snow plowing and personal property unrelated to the snowplowing business.
7. Within two months of completion of the garage all temporary shelters shall be removed from the site unless specific approval to extend the two-month time period is granted by the Building Commissioner
8. Maintenance of vehicles shall be limited to the Applicant's own vehicles.
9. A Special Permit shall be required for:
 - any new structure (permanent or temporary) on the lot;
 - any addition to the existing single-family dwelling or
 - any addition to the proposed garage as approved by this Decision.
10. Waste resulting from maintenance of vehicles shall be properly disposed of.

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11. There shall be no outside lighting unless otherwise required by the Building Commissioner.
12. The proposed construction shall comply with conditions set by other Town Departments, Boards and Commissions.
13. The proposed construction shall comply with all applicable requirements of the Zoning Bylaw.
14. 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.

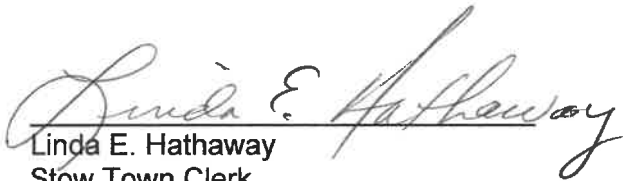
Signed on behalf of and with the permission of the Zoning Board of Appeals.



Ernest E. Dodd
Zoning Board of Appeals Clerk

March 15, 2022

Date Received and Filed
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Linda E. Hathaway
Stow Town Clerk