



**Town of Stow**  
**BOARD OF APPEALS**  
380 Great Road  
Stow, Massachusetts 01775-2127  
978-897-7258

**March 6, 2023**

**NOTICE and DECISION**  
**Stow Acres Country Club**  
**Maintenance Building**  
**SPECIAL PERMIT No. 4**

**Applicant:** Black Swan Management, LLC  
258 Andover Street  
Georgetown, MA 01833

**Owner:** Stow Holdings LLC

**Premises Affected:**

**Stow Acres Country Club, South Course, Randall Road, Stow, MA, shown on Stow Property Map Sheet R11 as Parcel No. 37A, containing 151.0541 Acres.**

**Property Deed:** Middlesex Registry of Deeds Book 67309, Page 266

**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 maintenance building and access drive.

A duly posted public hearing was held at 380 Great Road and online via Zoom Web Conferencing Service on January 9, 2023. The public hearing was continued to February 6, 2023, and closed at the conclusion of that session. Zoning Board of Appeals Members Mark Jones, Ernest Dodd, David Hartnagel, Andrew DeMore, and Andrew Crosby were present throughout the proceedings.

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

1. Application comprising of the following documents:
  - Letter to Town Clerk – Notice of Application Filing
  - Letter to Zoning Board of Appeals – Notice of Application Filing
  - Application Form
  - Certified List of Abutters
  - Other Permits and Variances
    - 1996 Zoning Board of Appeals Special Permit Decision
    - 2011 Conservation Commission Decision – DEP File No. 299-431

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- Board of Health - Sewage Disposal Permit
- Property Deed
- Development Impact Statement & Checklist
- Application Fee
- Project Description
- Development Impact Statement checklist
- Plans
  - Plan entitled “Plan of Land in Stow, Massachusetts”, prepared for SCC Associates, Inc., by Acton Survey & Engineering, Inc., dated January 2022 (Parcel K)
  - Plan entitled “Plan of Land in Stow, Massachusetts” prepared for SCC Associates, Inc., by Acton Survey & Engineering, Inc., dated January 2022 (Parcels H1 and H2)
  - Plan entitled “Plan of Land in Stow, Massachusetts” prepared for SCC Associates, Inc., by Acton Survey & Engineering, Inc., dated January 2022 (Parcels D, E, G, and J)
  - Plan entitled “Plan of Land in Stow, Massachusetts” prepared for SCC Associates, Inc., by Acton Survey & Engineering, Inc., dated January 2022 (Parcels F and K)
- Architectural Plan - Stow Acres Golf Course Accessory Maintenance, prepared By D. R. Poulin, dated 8-16-22
- Plan entitled “Stow Acres Country Club, Stow Massachusetts Site Development Plan, prepared for Black Swan Management, LLC, by Stamski and McNary, Inc., dated November 29, 2022, and revised January 26, 2022 (2023)
- Revised Site Development Plan (Progress Print) dated January 3, 2023
- Letter, received January 31, 2023, from Peter Brown, Stow Holdings LLC
- Letter, dated February 6, 2023, from Nutter McLennen & Fish LLP

2. Correspondence from Town Boards, Committees and Officials

- Memorandum, dated December 26, 2022, from Stow Conservation Department
- Email Correspondence, dated December 30, 2022, from Stow Police Chief
- Letter, dated January 20, 2023, from Stow Conservation Department and Stow Conservation Trust

3. Correspondence filed by others:

- Email correspondence from Alison Doucette, dated December 22 and December 23, 2022
- Email correspondence from Claudia Peters, dated December 16, 2022
- Letter from Steven and Jennifer Amico, dated January 3, 2023
- Letter from Teunis J. Ott, dated January 3, 2023
- Email correspondence from John Wendler, dated January 4, 2023
- Letter from Claudia G. Peters, dated January 6, 2023
- Letter from Matthew Gallacher, dated January 18, 2023

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### **Findings of the Board:**

1. The Applicant seeks a Special Permit under Section 3.9 (Non-Conforming Uses and Structures) of the Zoning Bylaw to allow:
  - Construction of a 5,000 sq. ft. maintenance building on an existing paved area along the parcel's eastern frontage on Randall Road and
  - a 24-foot-wide access drive.
2. The Golf Course Use is a pre-existing non-conforming use in the Residential District subject to the following Special Permits granted by the Zoning Board of Appeals:
  - Special Permit dated April 28, 1989, to allow alteration to an existing storage shed; addition of exterior floodlights; enlargement of the driving range tee and impact area; and addition of a new putting green. (Volume III, Page 252)
  - Special Permit dated February 1990, to allow an additional use of the present golf course for commercial cross-country skiing. (Volume III, Page 275)
  - Special Permit dated January 31, 1996, to allow additional floor area for the pro-shop and lounge. (Volume II, Page 357)
3. The Golf Course is also subject to a Conservation Restriction recorded in the Middlesex South Registry of Deeds, Book 79426, Page 313.

The Conservation Commission advised that they have no regulatory jurisdiction of the maintenance garage, in the location as proposed, under the Wetlands Protection Act and the Town of Stow Wetland Protection Bylaw.

The Conservation Commission and Stow Conservation Trust co-hold a Conservation Restriction on the Stow Acres South Course. At the time the Conservation Restriction was negotiated, it was known that Stow Acres intended to replace the existing maintenance barn and provision for this in terms of general location and size up to 15,000 sq. ft. is made in the language of the Conservation Restriction and accompanying development envelopes. Both the Conservation Commission and Stow Conservation Trust confirmed that the proposed location is consistent with the Conservation Restriction and the size of the proposed 5,000 sq. ft. maintenance building is significantly less than what would be allowed to be constructed under the Conservation Restriction.

The decision-making on consistency with the Conservation Restriction lies within the Conservation Commission and Stow Conservation Trust and is independent of the Zoning Board of Appeals review.

### Maintenance Building

4. Although not shown on the plans submitted with the application, during the public hearing the Applicant advised they propose to remove two existing barns after the new maintenance building is constructed and is exploring a new indoor/outdoor driving range in their place.

The Applicant does not seek approval for an indoor/outdoor driving range at this time. Such

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activity will require submission of a new application.

5. Abutters voiced concern about the location of the proposed maintenance building in close proximity to residential homes and requested consideration be made to alternative locations for the maintenance building.

The Applicant indicated that relocating the proposed building to the back of the property would be costly to bring the utilities further back and would hinder future plans to relocate the driving range.

6. The proposed maintenance building, as shown on the November 29, 2022, revised January 26, 2022 (2023), is located 50 feet from Randall Road and 35 feet to the nearest side lot line.

Property line setback requirements for structures are listed in the following sections of the Zoning Bylaw:

**Section 4.4 - Residential District:**

- Front yard – 30 feet
- Side yard – 25 feet
- Rear yard – 40 feet

The Board finds the proposed maintenance building location is in the Residential District and meets the setback requirements in Section 4.4 of the Zoning Bylaw.

**Section 3.9 (Non-Conforming Uses and Structures)**

- Side yard – 35 feet
- Rear yard – 35 feet
- From STREET LINE – 50 feet

Section 3.9.1.4 of the Zoning Bylaw states:

“No parking, BUILDING or outdoor storage facility of materials or products shall be closer than 35 feet from the side or rear LOT line, nor closer than 50 feet from the STREET LINE;”

The Board finds the proposed maintenance building is considered to be an extension of a pre-existing non-conforming use and is therefore subject to this section of the Zoning Bylaw. The Board further finds that the proposed maintenance building, as shown on the revised Site Plan, meets the required side and rear yard setbacks of this section of the bylaw.

**Section 8.4 (Golf Course Uses in the Residential District subject to a Special Permit by the Planning Board)**

- Front yard – 50 feet
- Side yard – 50 feet
- Rear yard – 50 feet

The Board finds Stow Acres Country Club is a pre-existing non-conforming use, which existed prior to adoption of this section of the Bylaw. Therefore, the Board finds this section of the

bylaw does not apply.

7. Abutters voiced concern that the industrial-like design of the proposed maintenance building is not in keeping with the residential and historical aesthetic character of the neighborhood. The plan shows a 5,000 sq. ft. steel building. The Plan does not indicate the color of the building or proposed screening.

The Applicant, in a letter received January 31, 2023, proposed to provide screening along Randall Road with shrubbery (arborvitaes a minimum of six feet tall) or fencing and to change the color of the proposed maintenance building to barn red with white trim and dark roofing.

8. Abutters voiced concern that the proposed maintenance building will block scenic vistas from abutting properties and the street and suggested the building be relocated to the back parking lot.

The Board finds that the scenic view is changed but will not be entirely blocked by the proposed structure. The elevation of the abutting homes are above the road and proposed structures. Views mostly obstructed from abutting properties are of the parking area and the two existing buildings to be demolished.

The golf course fronts Randall Road for 3,350 feet providing extensive scenic views. View of abutters' homes is currently partially obscured by trees on their lots and at the edge of Randall Road, especially during the spring, summer and fall months. The proposed location of the maintenance building and proposed screening will obscure the view for 130 feet along Randall Road.

Locating the maintenance building in the area of the south side of either the upper or lower parking area is problematic due to existing wetlands. Location of the proposed holding tank could also be problematic in that area.

#### Parking and outdoor storage of materials

9. The proposed maintenance building will not increase the parking demands associated with the golf course. While some spaces will be removed to locate the proposed building, new spaces will be striped on existing paved areas resulting in a total of 224 spaces as required by the Zoning Bylaw.
10. Section 3.9.1.4 of the Zoning Bylaw states "No parking, BUILDING or outdoor storage facility of materials or products shall be closer than 35 feet from the side or rear LOT line, nor closer than 50 feet from the STREET LINE." The Board finds that outdoor storage of materials are currently stored in an easement area on the abutting property.
11. Section 3.9.1.5 of the Zoning Bylaw states parking and outdoor storage of materials or products shall be screened from view of abutting properties and the view from public ways be vegetative screens, opaque fencing or topography.

The Applicant, in a letter received January 31, 2023, proposed to provide screening along Randall Road with shrubbery (arborvitaes) or fencing.

#### Signage

12. No signs are proposed for the proposed maintenance building.

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## Noise

13. Abutters voiced concern about noise from equipment to be located at the site during early hours.

There will be no increase in operations, as the proposed building will be replacing two existing maintenance buildings. Noise will be attenuated by screening. The proposed maintenance building will be insulated which will provide some noise attenuation. Access doors will be facing away from abutters so that the building itself will buffer some of the noise from maintenance vehicles entering and exiting the building.

Noise for the abutters will increase for a short time each morning during the growing season since the location of the new maintenance building is closer to their property,

The proposed maintenance building is a steel structure with internal insulation on the sidewall and ceiling. The large doors for access to the building are facing away from abutters on the west side and there are no windows. The building should provide attenuation for noises within the structure.

The normal day requires that the equipment be started and moved soon thereafter to the fairways and greens to prepare the course for morning golf.

The proposed arborvitae and natural trees along the property and abutters property will provide some attenuation.

There will also be noise from the normal morning traffic on Randall Road.

## Lighting

14. The Plan does not show lighting for the proposed maintenance building.

## Storage of fertilizer and pesticides

15. Abutters noted concern about storage of harmful materials in and around the proposed maintenance building in close proximity to several abutting wells.

The Applicant advised that they might be storing sand, loam, and fertilizer near the building. Currently bagged fertilizer is stored in the yellow building (to be removed) and some of the sand and loam is currently stored on the pavement where the maintenance building is to be located. The Applicant said they are willing to look at storing those materials in a less visible location or fence the area.

The Board finds pesticide storage is subject to the Federal Insecticide, Fungicide and Rodenticide Act, and applicable Massachusetts Department of Environmental Protection and Massachusetts Department of Agricultural Resources regulations.

The Applicant advised that equipment maintenance and cleaning would take place within the building. The January 26, 2022 (2023) site plan shows a proposed non-industrial waste holding tank for the floor drains of the building.

The Board finds the necessary infrastructure, including floor drains and holding tanks should be reviewed and approved by the Board of Health and the Building Commissioner for compliance with any local, state and federal guidelines and regulations as applicable.

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### Outdoor Storage of Materials

16. Section 3.9.1.5 of the Zoning Bylaw states that outdoor storage of materials or products shall be screened from view of abutting properties and the view from public way.

The Applicant advised there is no proposed increase in the amount of storage of fertilizer or pesticides needed or proposed and that any outdoor storage of materials will be screened from abutting properties by existing vegetation, which will be enhanced with additional plantings or a fence.

There is no proposed increase in the storage of fertilizer or pesticides being needed or proposed by the applicant.

The area where the maintenance building is proposed to be placed is presently paved and thus an impervious surface. There are no plans to regrade this present parking area.

Any runoff now and in the future will continue to flow away from the hill the abutting home and well are located and west toward the clubhouse and lower parking lots. There is no change to the runoff from the present parking area.

An improvement will be made on how the maintenance equipment is cared for. Cleaning of mowers, fertilizer spreaders and pesticides dispensers will be within the maintenance building where water will be channeled to a floor separator drain and moved to a holding tank. The holding tank will be periodically pumped and contents will be disposed of at an approved facility.

Presently there is no control for the byproducts of maintenance of the golf course equipment.

The Board finds pesticides storage is subject to the Federal Insecticide, Fungicide and Rodenticide Act, and applicable Massachusetts Department of Environmental Protection and Massachusetts Department of Agricultural Resources Regulations.

The floor drain in the maintenance building is approximately 185 feet from the well at 32 Randall Road and the holding tank is over 200 feet from the well. Title 5 requires the holding tank to be 50 feet from the property line. Although we have no supporting data, the groundwater supplying the wells on abutting properties is most likely flowing down from the hill the homes and wells are built on toward the golf course which is at a lower elevation of 203 feet. The change being proposed will have no impact on the wells as there is no increase in runoff from the parking area or the quality of runoff.

The necessary infrastructure including floor drains and holding tanks should be reviewed and approved by the Board of Health and the Building Commissioner for compliance with any local, state, and federal guidelines and regulations as applicable.

Outside storage areas for sand, loam fertilizer equipment and supplies shall be screened from view from off the property.

### Master Plan for the South Course

17. Abutters noted concern about lack of a master plan for the site, noting that voters were told that a master plan would be put forth at the time voters were asked to approve the purchase and conservation restrictions on the south and north course.

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The Stow Conservation Department and Stow Conservation Trust clarified that the Master Plan study area does not include the south course/club house area. The study area includes approximately 32 acres of additional land either owned by the Town or to be part of the development on the North Course. It was never indicated that there would be a master plan for the South Course, which will remain in private ownership.

The Applicant advised that they do not have final details on a site plan for the south course.

The Board finds its jurisdiction is limited to the application for the proposed maintenance building. Any future site plan changes would require submission of a new application.

#### Access Drive

18. Abutters voiced concern about the location and need for an additional access drive for the proposed maintenance building.

The Stow Police Chief advised that he has serious concerns on the entrance placement near the intersection of Boon Road and Randall and would not be in support of this entrance.

The Plan indicates the proposed access drive would require removal of a stone wall. The Conservation Restriction allows for repair and maintenance of existing stone walls and the creation of permanent trail openings of no more than six (6) feet in width.

The Board finds that the proposed access drive location is unsafe, intrusive to the neighbors and in violation of the Conservation Restriction which limits disturbance of stone walls to repair, temporary access and trail easements. Therefore, the Board supports the Applicant's proposed plan revision to eliminate the access drive.

In response to concerns raised about the proposed access drive, the Applicant submitted a revision to the site plan eliminating the access drive.

#### Existing Structures

19. During the public hearing concern was raised about the historic nature of the existing structures to be removed. The Applicant advised that the two structures are in such disrepair it would be difficult to restore or moved to another location.

Although the Town of Stow does not have a bylaw that restricts demolition of historic buildings, the Board encourages the Applicant to reach out to the Historic Commission to discuss if they have any interest in relocation of the existing structures.

#### Findings under Section 3.9.6 of the Zoning Bylaw

20. The Board finds the proposed maintenance building, as conditioned herein, conforms with the provisions of the bylaw. The proposed maintenance building meets the dimensional setback requirements.

21. The Board finds that the proposed maintenance building, as conditioned herein, will not be substantially more detrimental to the neighborhood than the existing non-conforming use.

The proposed maintenance building replaces two existing, small maintenance buildings. The square footage of the proposed maintenance building is less than the two existing buildings combined and therefore does not represent an expansion of operations.

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The Applicant proposes to change the color of the proposed building to a barn red and a dark roof color to lessen the industrial look of the proposed building,

Mandatory Findings – Section 9.2.6 of the Zoning Bylaw

22. 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.

23. The Board finds the proposed maintenance building use, as conditioned herein, does not intensify any existing nonconformities.

24. The Board finds the proposed building and use, as conditioned herein, will not be substantially more detrimental to the neighborhood than the existing nonconforming use.

**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 Andrew Crosby) **VOTES TO GRANT A SPECIAL PERMIT** to allow construction of a maintenance building subject to the following conditions and **ACCEPTS the Applicant's request to withdraw the proposal**

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**for an access drive from Randall Road to the maintenance building:**

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. As proposed by the Applicant, the color of the proposed maintenance building shall be barn red with white trim and dark roofing.
5. The proposed maintenance building shall be shielded by shrubbery, such as arborvitae, or other similar planting to be a minimum of 6 feet tall when planted to add to the existing buffer to abutting and Randall Road properties.

Plan Modification – Prior to commencement of work, a modified site plan indicating screening of the maintenance building to be provided along Randall Road and abutting properties shall be submitted to and approved by the Board.

6. Access to the proposed maintenance building shall be from the existing curb cut. There shall be no additional curb cuts or access drives from Randall Road.
7. Light fixtures for the proposed maintenance building shall comply with Section 3.8.1.5 (Exterior lighting) of the Stow Zoning Bylaw.
8. The proposed use shall comply with Section 3.8.1.3 (Noise) of the Zoning Bylaw.
9. Prior to issuance of a Building Permit, infrastructure for the indoor service and maintenance of vehicles, such as the proposed floor drains and holding tanks and other associated improvements shall be reviewed by and approved by the Board of Health and shall comply with any local, state, and federal guidelines and regulations as applicable.
10. Outdoor storage of materials or products shall be located no closer than 35 feet from the side or rear lot line, nor closer than 50 feet from the street line.
11. Storage of sand, loam and fertilizer shall comply with any local, state, or federal guidelines and regulations, as applicable.
12. Outdoor storage areas shall be screened from view from abutting properties and Randall Road.

Plan Modification - Prior to commencement of work, a modified site plan indicating screening of outdoor storage areas along Randall Road and abutting properties shall be submitted to and approved by the Board.

13. Pesticides shall be stored in a manner pursuant to the Federal Insecticide, Fungicide and Rodenticide Act, and applicable Massachusetts Department of Environmental Protection and Massachusetts Department of Agricultural Resources regulations.

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14. The existing maintenance buildings shall be removed within 2 years of issuance of an occupancy permit for the proposed maintenance building.
15. The design and construction, as conditioned herein, shall be essentially in conformance with documents and plans on file with the Board.
16. The proposed construction shall comply with conditions set by other Town Departments, Boards and Commissions.
17. The proposed construction shall comply with all applicable requirements of the Zoning Bylaw.
18. 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.
19. This Special Permit No. 4 shall be considered a condition of, and modification to all prior Special Permits granted by this Board. Except as expressly modified by this Decision No. 4, all terms and conditions of all other Special Permit decisions shall remain in full force and effect.

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.

  
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Ernest E. Dodd  
Zoning Board of Appeals Clerk

March 8, 2023  
Date Received and Filed  
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Linda E. Hathaway  
Stow Town Clerk