



OFFICE OF THE

TOWN CLERK

STOW, MASSACHUSETTS 01775

VIRGINIA L. HATCH

January 4, 1989

The Honorable James M. Shannon
Attorney General of Massachusetts
One Ashburton Place, Room 2019
Boston, Massachusetts 02108

Dear Attorney General:

The following is a true copy of action taken under Articles 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15 and 17 of the warrant for the special town meeting held in Stow on December 12, 1988.

ARTICLE 3. Voted by majority to amend the General Bylaws, Article 4, Section 8, paragraph a., so it will read as follows:

- "a. A committee to be known as the Capital Program Committee shall be established, composed of one member appointed by the Finance Committee, one member appointed by the Board of Selectmen and three additional members appointed by the Moderator. The members appointed by the Finance Committee and the Board of Selectmen shall be appointed for two-year terms, with the initial member appointed by the Finance Committee to have an initial term of one year. The other members shall be appointed for three-year terms such that one term will expire each year. The Moderator shall also appoint not more than three (3) associate members with the same qualifications as regular members, each for a term of one year, who shall be non-voting members whose duties, rights and obligations shall be determined by the regular members thereof. All members and associate members shall serve through the annual town meeting of the year in which their terms expire. Only registered voters of the Town of Stow who are not employed by or serve as officers for the Town shall be eligible for appointment. A vacancy shall be filled for the expired term in the manner of the original appointment. The committee shall choose its own chairman and secretary."

ARTICLE 4. Voted unanimously to amend the Zoning Bylaws to provide for accessory apartments in the following manner:

1. Add Section VI.B.3. to read as follows:

"3. Accessory Residential Uses on One-Family Lots: Accessory Apartments by Right:

a. General Objectives:

The provisions of accessory dwelling units in owner occupied one-family dwellings or in a separate structure is intended to (1) increase the number of small dwellings units available for rent in town; (2) increase the range of choice of housing accommodations; (3) encourage greater diversity of population with particular attention to young adults and senior citizens; and (4) encourage a more economic and efficient use of the town's housing supply while maintaining the appearance and character of the town's single family neighborhoods.

b. Conditions and Requirements for a Unit in a One-Family Dwelling:

The Building Inspector shall issue a building permit for a newly created accessory apartment in a detached building or one-family dwelling in any residential district provided that the unit meets the standards of the building code and that each of the following conditions and requirements is met:

- (1) The owner of the dwelling in which the accessory apartment is created shall occupy either of the dwelling units in the structure in question, except for temporary absences of up to six months. For the purposes of this section, the "owner" shall be one or more individuals residing in a dwelling, who holds legal or beneficial title and for whom the dwelling is the primary residence for voting and tax purposes.
- (2) There shall be no more than one accessory apartment on a single lot.
- (3) That both the principal and accessory units satisfy the requirements of Title V (310 CMR 15.00) for waste water disposal and Stow Board of Health regulations.
- (4) The floor area of the accessory apartment shall not exceed 700 square feet.
- (5) The minimum lot size shall be 1.5 acres.
- (6) There shall be no more than two bedrooms in an accessory apartment.

c. Exterior Appearance of a Dwelling with an Accessory Apartment:

The accessory apartment shall be designed subject further to the following conditions and requirements:

- (1) All stairways to second and third stories shall be enclosed within the exterior walls of the dwelling.
- (2) Any new entrance to the principal dwelling unit shall be located on the side or in the rear of the dwelling. Any new entrance to the separate structure shall be to the side facing the principal dwelling unit or to the rear of the structure.
- (3) Where there are two or more existing entrances on the front facade of the principal dwelling, if modifications are made to any entrance, the result shall be that one appears to be the principal entrance and the other entrances appear to be subordinate.

d. Off-Street Parking:

There shall be provided at least two off-street parking spaces for the principal dwelling unit and at least two off-street parking spaces for the accessory unit."

2. Add Section VI.B.4. to read as follows:

"4. Accessory Residential Uses on One-Family Lots: Accessory Apartments Under a Level 1 Special Permit:

A Level 1 special permit for an accessory apartment may be issued for units with less than 1.5 acres provided that

- a. All of the conditions and requirements of Section VI.B.3. are met (with the exception of Section VI.B.3.b.(5)).
- b. The conditions and requirements for approval of a Level 1 special permit are met. (See Section VII.F.)

3. Amend Section I, Purposes, by adding the following phrase after "to preserve the historical and cultural characteristics of the Town;":

"to achieve housing choices and a range of housing costs;"

4. Amend Section II, Definitions, by adding the following definition as paragraph A. and appropriately relettering the existing definitions which follow:

"A. Accessory Apartment:

1. A second dwelling unit located within a structure constructed as a detached one-family dwelling, subordinate in size to the principal dwelling unit and separated from it in a manner that maintains the appearance of the structure as a one-family unit; or
2. A second dwelling unit located within a separate structure, such as a barn, garage or shed, that is clearly subordinate to the principal dwelling unit."

ARTICLE 5. Voted unanimously to amend the Zoning Bylaws to provide for duplex residential uses by adding a new Section VI.B.5. to read as follows:

"5. Duplex Residential Uses in the Residential District Subject to a Level 1 Special Permit by the Planning Board:

a. Purposes:

The duplex option is intended

- (1) To achieve a broader range of housing choice within the community.
- (2) To stimulate more affordable housing units through the creation of duplex development on individual lots within a subdivision.
- (3) To permit a developer, public agency, or developer in conjunction with a public agency, to propose duplex development in subdivisions which shall be affordable to households whose incomes meet the Town's criteria for affordable housing.

b. Dimensional Requirements:

On lots that are proposed for subdivision, duplexes must be situated on individual lots which conform to the density and dimensional regulations of the Residential District. Each lot shall require a minimum lot size of 65,340 square feet, 43,000 square feet of which is "buildable" land. Under no circumstances will a special permit be granted for projects the construction of which is sited in whole or in part in the Water Resource Protection District (see Section VI.J.). The maximum square footage of the total duplex structure (both units combined) shall be no greater than 3,000 square feet of floor area. In no event shall duplexes be permitted on more than 25% of the lots within a subdivision.

c. General Requirements:

Two-family development in the Residential District may only occur within a proposed subdivision by obtaining a Level 1 special permit as described in Section IV and upon obtaining certification from the Board of Health that all waste disposal standards are met. Construction must commence within two years of obtaining the special permit and be completed within the two years following the start, or the permit will expire.

d. Special Permit Requirements:

Duplex development is subject to approval as provided in this subsection.

(1) Application for a special permit under this Section shall be made to the Planning Board through the Town Clerk by submitting ten (10) copies of all submission material and paying the required application fee.

(2) The application shall include the following:

- (a) The Special Permit Granting Authority shall specify a submission fee in its Rules and Regulations and in no case shall the fee be less than \$350.00;
- (b) all information required for a Level 1 special permit;
- (c) all information required for a subdivision;
- (d) a legally recordable document that details the long term provisions that are required for the retention of the affordable units for affordability purposes;
- (e) information describing the projected ownership pattern of the proposed development once completed;
- (f) a property rights plan based on an instrument survey indentifying parcels, if any, to be conveyed to the Town by deed or easement;
- (g) a site grading plan showing proposed changes in contours and indentifying landscaping materials, species of plants and sizes and specific plans for any common open space.

(3) Public Hearing

The public hearing shall be held in accordance with the provisions of Massachusetts General Laws.

(4) Criteria of Approval

The Level 1 special permit may be approved if the Special Permit Granting Authority finds that all the following conditions are met:

- (a) All of the criteria required for a Level 1 special permit are met (see Section VII.F); and
- (b) There is a minimum of 10% or one dwelling unit (whichever is more) and a maximum of 40% of all dwelling units within the proposed subdivision that are affordable according to the Town's published criteria."

ARTICLE 6. Voted unanimously to amend the Zoning Bylaws to provide for erosion control by adding a new Section VI.F.1.j. to read as follows:

"j. Erosion control:

Site design and materials and construction processes shall be designed to avoid erosion damage, sedimentation or uncontrolled surface water run-off.

- (1) Grading or construction which will result in slopes of twenty-five percent (25%) or greater on fifty percent (50%) or more of the lot area or on thirty-two thousand (32,000) square feet or more on a single parcel, even if less than half of the lot area, shall be allowed only under special permit from the Planning Board. This shall be granted only upon demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled degradation. Applications and plans for such special permits shall be referred to the Conservation Commission.
- (2) Where j.(1) and j.(3) apply, all slopes exceeding fifteen percent (15%) resulting from site grading shall be covered with topsoil to a depth of at least six inches and planted with vegetative cover sufficient to prevent erosion.
- (3) No areas totaling two acres or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled six inches or more so as to destroy existing vegetation unless in conjunction with agricultural activity or unless necessarily incidental to construction on the premises under a currently valid building permit or unless within streets which are either public or designated on an approved subdivision plan or unless a special permit is approved by the Planning Board on the condition that run-off will be controlled, erosion prevented and either a constructed surface or cover vegetation will be provided not later than the first full spring season immediately following completion of the stripping operation. No stripped area or areas which are allowed by special permit shall remain through the winter without temporary cover of winter rye or similar plant material being provided for soil control, except in the case of agricultural activity when such temporary cover would be infeasible.
- (4) The Building Inspector shall require information of the applicant as necessary for him to ensure compliance with these requirements, including if necessary, elevation at key locations, description of vegetative cover and the nature of impoundment basins proposed, if any.
- (5) Where resultant site grades will exceed fifteen percent (15%) the Town shall require a performance bond to ensure compliance with these requirements.

- (6) Where j.(1) and j.(3) apply, hillside areas shall be retained with vegetative cover as follows:

<u>Average Slope</u>	<u>Minimum % of Land to Remain in Vegetation</u>
10.0 - 14.9	25
15.0 - 19.9	40
20.0 - 24.9	55
25.0 - 29.9	70
30.0 +	85 "

ARTICLE 7. Voted 131 Yes, 12 No (94 required) to amend the Zoning Bylaws, Section IV "Continuance of Existing, Non-Conforming Uses and Structures" by adding the following to paragraph A.:

"All applications for extensions and/or alterations shall include a scaled floor plan of the structure(s) in question showing floor area and ground coverage prior to and following the proposed changes in order to determine the degree to which the use has expanded from its original size. All applications for such Level 2 special permits shall include such information and plans as required for a Level 1 special permit as required in Section VII.F. Applicants shall also comply with the following site planning standards for "non-conforming uses or structures":

1. It shall comply with the parking requirements of Section VI.D., except as superseded by 4., 5. and 6. below.
2. It shall comply with the sign regulations of Section VII.E.
3. It shall comply with the general regulations of Section VI.F.
4. 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.
5. Parking and outdoor storage of materials or products shall be screened from the view of abutting properties and the view from public ways by vegetative screens, opaque fencing or topography.
6. There shall be sufficient space and provision on site for the maneuvering of vehicles so as to allow loading and unloading of materials and products without impeding the flow of traffic along public ways or blocking pedestrian sidewalks, paths and rights of way."

ARTICLE 8. Voted unanimously to amend the Zoning Bylaws, Section II, by inserting a new definition "Slope", as printed in the warrant, and by relettering the following existing definitions in proper alphabetical order.

"Slope:

For the purposes of the erosion control provision, slope shall be measured using the two-foot contours on the topographic map supplied with the site plans. The slope percentage will be the change in elevation divided by the shortest distance between two contour lines. Upon written permission of the permit granting authority, slope percentages may be averaged across specified horizontal distances."

ARTICLE 9. Voted unanimously to amend the Zoning Bylaws by adding a new Section VII.K. to provide for fences and walls, and further voted to amend Section II of the Zoning Bylaws by adding the following definitions with a letter designation in proper alphabetical order when combined with the existing definitions:

"Fence:

A structure made of wood, wire, metal or other durable material erected so as to serve as an enclosure or a barrier against unobstructed passage from one side to the other."

"Wall:

A structure of stone, masonry, wood or other durable material constructed so as to retain soils or to serve as an enclosure or barrier against unobstructed passage from one side to another."

Section VII

"K. Fences:

1. In residential districts, no fence or wall shall exceed eight feet in height.
2. In residential districts, fences shall be set back a minimum of one foot from the property line. In instances when the fence is primarily intended to enclose animals, it shall be set back a minimum of three feet from the property line.
3. Swimming Pools Fencing:
 - a. Every outdoor swimming pool having a capacity of 4,000 gallons or more, whether or not filled with water, shall be completely surrounded at all times by a fence or wall not less than 48" in height above grade, which may be the pool wall itself.
 - b. Every such fence or wall shall be so constructed as to not have openings, holes or gaps larger than 4" in any dimension except for doors, gates and picket fences; in the latter case, however, the gaps between the pickets shall not exceed 4".
 - c. All gates or doors opening through such enclosures shall be of not less than 48" in height and shall be equipped with a self-closing and self-latching device located at least 48" above the underlying ground and inaccessible from the outside to small children. Every such gate or door shall be kept latched at all times when the swimming pool is not in use, and any ladders shall be removed."

ARTICLE 10. Voted unanimously to amend the Zoning Bylaws, Section VIII, by deleting the current Section VIII.D. and adding the new Section VIII.D. to read as follows:

"D. Penalty for Violation:

The penalty for violation of this bylaw shall be a fine of one hundred dollars (\$100) for the first offense, two hundred dollars (\$200) for the second offense, three hundred dollars (\$300) for the third offense and three hundred dollars (\$300) for each succeeding offense. Each day that a violation continues shall constitute a separate offense."

ARTICLE 11. Voted unanimously to amend the Zoning Bylaws, Section VII.B. "Area, Frontage, Yard, and Floor Area Requirements", by deleting the existing Section VII.B.1. and adding the new Section VII.B.1. to read as follows:

"1. eaves, sills, cornices, belt cornices and window awnings may project up to two feet into the required yard;"

ARTICLE 13. Voted unanimously to amend the Zoning Bylaws by adding a new Section XIV to provide for phasing of growth, to read as follows:

"SECTION XIV

Phasing of Growth

Over the past decade, the Town of Stow has been subject to extensive growth that has strained its ability to govern. With this point in mind, the purpose of this Section is to ensure that future growth occurs in an orderly and planned manner that allows the Town time for preparation to maintain high quality municipal services for an expanded residential population while allowing a reasonable amount of additional residential growth during those preparations. The citizens of Stow insist on, take pride in, and enjoy a reputation for such high quality and reliable municipal services. Several key municipal services, including human services and schools, are currently or may soon be under considerable strain. This Section will relate the timing of residential development to the Town's ability to provide services.

In addition, this Section also proposes to encourage certain types of residential growth which reflect the values of the Town as previously expressed in its policies and appropriations.

A. Regulations:

Beginning on the effective date of this Section, and continuing for ten calendar years, no building permit for construction of projects involving four or more residential units shall be issued unless in accordance with the regulations of this Section.

Dwelling units shall be considered as part of a single development if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of adoption of this Section.

All newly authorized residential units for which individual or several building permits have been issued pursuant to 780 CMR 113.1 shall count toward the growth rate limit of 35 dwelling units defined in Section XIV.B.1.

B. Planned Growth Rate:

1. This Section shall take effect beginning on the date of adoption by Town Meeting (December 12, 1988). Beginning on this date of adoption, the applicable permit granting authority (Planning Board, Zoning Board of Appeals or Building Inspector) shall not approve any residential development which would result in authorizations for more than 35 dwelling units over a 730 consecutive day (two-year)

period unless (a) specifically exempted (the project has less than four residential units); or (b) it is duly authorized in a development schedule.

2. Once a development schedule is approved, building permits shall be issued in conformity with that schedule. Once authorized by the development schedule, said building permits shall be issued even if the 35-unit limit has been reached.

C. Development Schedule:

Building permits for new dwelling units shall be authorized only in accordance with the following schedule:

<u># of New Units in Development</u>	<u>Dwelling Units/Year*</u>
1 - 3	100%
4 - 10	up to 40%
11 - 20	up to 25%
21 - 40	up to 20%
41 +	up to 15%

*Percent of units in the development for which building permits may be authorized each year. In instances where the calculated numbers are less than whole numbers, they will be rounded down to the nearest whole number.

D. Modification to Schedule:

The following modifications to the development schedule found in Section XIV.C. shall be allowed by the Planning Board (for Definitive Subdivision, ANR, and Level 1 special permits) or Zoning Board of Appeals (for Level 2 special permits) as part of the approval of any development. Points assigned in each category are to be cumulatively totaled to determine the modification to the schedule based on the Modification to Schedule Table found in Section XIV.D.7.

1. Affordable Housing:

- a. Any development which includes 25 to 100% of its units for low and/or moderate income people and which is subsidized by federal, state or local programs, or proposed by the Stow Housing Authority, or by a non-profit or limited dividend partnership, or any development which includes non-subsidized housing units priced to be affordable to people whose income is equal to or less than 120% of the median income for Stow and which provides that the mix of affordable and market rate housing built in any one year is equivalent to the overall mix for the entire development, and

which further provides that resale restrictions are established by the developer which ensure that the affordable units remain affordable for a period of thirty years, shall be exempt from the Planned Growth Rate in Section XIV.C. and shall be allowed in accordance with the following schedule:

<u>Number of New Units</u>	<u>Dwelling Units/Year</u>
1 - 50 total units	100%
51 - 80 total units	up to 50%
80 + total units	up to 33%

	<u>Points Assigned</u>
b. Any development that meets the criteria found in Section XIV.D.1., but which includes 10% to 24% of its units for low and moderate income people.	20 pts.
c. Any development that includes no affordable units that meet the criteria in Section XIV.D.1.	-10 pts.
2. Open Land/Farmland:	
a. Provision of open land/parkland, as part of any development. For the purposes of this provision "usable land" shall be defined as in Section VII.B.5.b.(4) and "open land" shall be defined as in Section VII.B.5.d.	
(1) Open land consisting of 4,000 to 4,999 square feet of usable land per dwelling unit which is protected from future development through deed restrictions and/or protective covenant, and including provisions for renewal.	10 pts.
(2) Open land consisting of 5,000 to 5,999 square feet of usable land per dwelling unit which is protected from future development through deed restrictions and/or protective covenant, and including provisions for renewal.	15 pts.
(3) Open land consisting of at least 6,000 square feet or more usable land area per dwelling unit which is protected from future development through deed restrictions and/or protective covenant, and including provisions for renewal.	20 pts.

(4) Improved open land that meets the defined recreation needs of the Town of Stow as defined by Open Space Plan and deeded to the Town of Stow. (Add 5 points to the applicable category above.)

(5) No usable open land. -10 pts.

b. Protection and retention of farmland according to the following impacts on working farms:

(1) Development on agricultural land, defined as land classified prime, unique or of state or local importance by the USDA, SCS or land characterized by active agricultural use as defined by Chapter 61A of the Mass. General Laws. -30 pts.

(2) Provision of a permanent 100-foot buffer zone as a deed restriction, including a fence and screening vegetation from the property boundary of a working farm. 10 pts.

3. Aquifer Protection:

a. Development in the Aquifer Protection Overlay District

(1) Average lot size less than two acres. -30 pts.

(2) Average lot size two acres or more. -15 pts.

4. Open Space Residential Development:

Any proposal approved under Section VII.B.5. will be subject to the following schedule provided that the open space is deeded to the Town:

<u>Number of Units in Development</u>	<u>Dwelling Units/Year</u>
1 - 10	100%
10 - 20	80%
20 - 30	50%
30 +	30%

5. Infrastructure:

a. Any development which commits to completing all roads and utilities prior to issuance of building permits during the first year of the total project. 30 pts.

- b. Any development that commits to completing all roads or utilities (one or the other) prior to issuance of building permits. 15 pts.
- c. Any development which commits to completing all roads and utilities during years one to three of the project. 5 pts.
- d. Any development which commits to completing all roads and utilities after the third year of the project. -15 pts.

6. Other:

The Planning Board (Definitive Subdivision, Approval Not Required and Level 1 special permits) and Zoning Board of Appeals (Level 2 special permits) may grant up to a total maximum of 40 points after making the relevant findings based on submitted documentation and giving due consideration to the following:

- a. Ability of the Town to adequately serve the proposed development with streets, utilities, drainage, educational and protective services.
- b. The amelioration of development impacts, such as through lower densities, preservation of natural or agricultural resources, preservation of scenic views, or other approaches approved by the Planning Board.
- c. Other arrangements which will provide for or reduce the cost of public services and facilities such as child care, health care, elder services, disabled services, recreation, transportation or water conservation.
- d. Provision of housing needs for diverse population groups.
- e. Commitments to improve town facilities.
- f. Site design which responds to, incorporates and protects natural features such as vegetation, topography, water courses and views, or which is designed to respond to the character of the neighborhood.
- g. Housing and site features that emphasize safety aspects such as sidewalks, school bus stops or fire protection systems.

7. Development Schedule Modification Table:

Points accumulated under Section XIV.D.1. through XIV.D.6. shall be totaled and the total shall modify the development schedule in Section XIV.C. according to the following table.

DEVELOPMENT SCHEDULE	POINT TOTAL									
		-15	-1		1	6	13	21	29	
# of Units		to	to	0	to	to	to	to	to	
	-30	-29	-14	0	5	12	20	28	36	37+
1 - 3	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
4 - 10	28%	32%	36%	40%	55%	60%	65%	70%	75%	83%
11 - 20	17%	19%	22%	25%	38%	43%	48%	53%	58%	66%
21 - 40	14%	16%	18%	20%	30%	35%	40%	45%	50%	58%
41 +	9%	10%	13%	15%	25%	30%	35%	40%	45%	53%

E. Requirements:

1. All Definitive Subdivision, Approval Not Required and Special Permit applications shall include a proposed development schedule by the applicant.
2. Development schedules as proposed or modified shall be approved by the appropriate body (Planning Board or Zoning Board of Appeals), shall be recorded at the Middlesex County Registry of Deeds, and shall have no effect until recorded. The schedule shall specify the earliest date that each unit/lot may become eligible for the issuance of a building permit.

F. Zoning Change Protection:

The protection against zoning changes as granted by Section 6 of Chapter 40A, Mass. General Laws, shall, in the case of a development whose completion has been constrained by this bylaw, be extended to the minimum time for completion allowed under this bylaw."

ARTICLE 14. Voted unanimously to amend the Zoning Bylaws to provide for bed and breakfast homes and establishments by adding a new definition, "Bed and Breakfast Home or Establishment", and further voted to amend the other cited sections of the Zoning Bylaws, all as printed in the warrant.

1. Amend Section II by inserting the following definition and by relettering the existing following definitions in proper alphabetical order:

"Bed and Breakfast Home or Establishment:

1. "Bed and Breakfast Establishment", a private owner-occupied dwelling where at least four but not more than eight rooms are let and a breakfast is included in the rent.
 2. "Bed and Breakfast Home", a private owner-occupied dwelling where three or fewer rooms are let and a breakfast is included in the rent."
2. Amend Section VI.B.1. by adding the following:
 - ✓ "i. Bed and Breakfast Home, provided that off-street parking, one parking space per guest room, is available."
 3. Amend Section VI.B.2. by adding the following:
 - ✓ "f. Bed and Breakfast Establishment, provided that off-street parking, one parking space per guest room, is available."
 4. Amend Section VI.C.1.a. by inserting the following after the words "Tourist homes":

" , bed and breakfast establishment or home,"
 5. Amend Section VI.C.3.a. by inserting the following after the words "tourist homes":

" , bed and breakfast establishment or home,"
 6. Amend Section VI.D.2.a. by inserting the following after the words "Tourist homes":

"bed and breakfast establishment or home,"
 7. Amend Section VI.D.3. by adding the following:
 - "i. Bed and breakfast establishment or home."
 8. Amend Section VI.E.3. by adding the following:
 - "h. Conversion of existing residence to bed and breakfast establishment or home."

ARTICLE 15. Voted unanimously to amend the Zoning Map by changing industrial zoned land to residential zoned land (to move industrial/residential line to parcel boundaries) on the following two parcels:

Parcels of land in Stow, Middlesex County, as indexed and shown in the Assessors' list and maps of the Town of Stow and described as recorded at Middlesex South District Registry of Deeds:

Book 12740, Page 486, Map R-10, Parcel 49, 28/30 Maguire Lane,
approximately 32,800 square feet

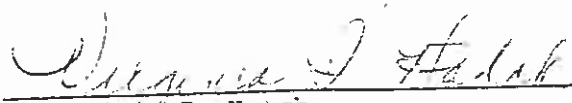
Book 16312, Page 26, Map R-10, Parcel 52, 9 Elizabeth Drive,
approximately 1,300 square feet

ARTICLE 17. Voted unanimously to amend the Zoning Bylaws in the following manner:

Amend Section VI.B.2. to add the following as "g" at the end of Section VI.B.2.:

"g. Nursing homes or elderly care facilities."

Attest:



Virginia I. Hatch
Town Clerk of Stow

TOWN OF STOW
STOW, MASSACHUSETTS



ZONING BYLAWS

Effective October 23, 1968
Including Amendments Through December 12, 1988

TABLE OF CONTENTS

		<u>Page</u>
SECTION I	Purposes	1
SECTION II	Definitions	2
SECTION III	Districts	6
SECTION IV	Continuance of Existing, Non-Conforming Uses and Structures	8
SECTION V	New Construction and New Uses	10
SECTION VI	Use Regulations	
	A. Recreation-Conservation District	12
	B. Residential District	14
	C. Business District	19
	D. Commercial District	21
	E. Industrial District	23
	F. General	24
	G. Flood Plain/Wetlands District	28
	H. Compact Business District	29
	I. Refuse Disposal District	30
	J. Water Resource Protection District	31
SECTION VII	Development of Sites and Location of Buildings and Structures	
	A. Height Regulations	36
	B. Area, Frontage, Yard, and Floor Area Requirements	36
	Table of Requirements to be Satisfied Entirely Within Each District	42
	Footnote to Chart	43
	C. Accessory Buildings	45
	D. Off-Street Parking and Loading Areas	45
	E. Signs	47
	F. Special Permits	52
	G. Earth Removal	57
	H. Trailers and Mobile Homes	57
	I. ----	57
	J. Common Drives	57
	K. Fences	58
SECTION VIII	Administration	59
SECTION IX	Board of Appeals	59
SECTION X	Amendment	59
SECTION XI	Religious, Educational, Agricultural or Municipal Uses	60
SECTION XII	Validity	60
SECTION XIII	Procedure	60
SECTION XIV	Phasing of Growth	61
	Summary of Zoning Amendments	1A

TOWN OF STOW
STOW, MASSACHUSETTS

ZONING BYLAWS
Effective October 23, 1968

SECTION I

Purposes

The purposes of this Zoning Bylaw are to regulate the use of land, buildings, and structures to the full extent of the constitutional and statutory powers of the Town to protect the health, safety and general welfare of present and future inhabitants, including but not limited to the following purposes: to preserve the environmental resources of the Town; to maintain open spaces by recognizing the concern for irretrievable loss of farm, wetlands and woodlands while respecting the rights of landowners; to encourage the most appropriate use of land through a proper balance of residential, commercial and industrial designations; to preserve the historical and cultural characteristics of the Town; to achieve housing choices and a range of housing costs; and to induce its citizens to remain in the community, thus providing a sense of history and continuity.

SECTION II

Definitions

For the purposes of this bylaw certain terms and words are herein defined as follows:

Words used in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular; the word "shall" is mandatory and not directory; the word "lot" includes the word "plot", the word "land" includes the words "marsh" and "water".

A. Accessory Apartment:

1. A second dwelling unit located within a structure constructed as a detached one-family dwelling, subordinate in size to the principal dwelling unit and separated from it in a manner that maintains the appearance of the structure as a one-family unit; or
2. A second dwelling unit located within a separate structure, such as a barn, garage or shed, that is clearly subordinate to the principal dwelling unit.

B. Accessory Building or Use:

A use, or detached building, which is located on the same lot with the main building or use and which is subordinate and customarily incidental to the use of the main building or the land.

C. Bed and Breakfast Home or Establishment:

1. "Bed and Breakfast Establishment", a private owner-occupied dwelling where at least four but not more than eight rooms are let and a breakfast is included in the rent.
2. "Bed and Breakfast Home", a private owner-occupied dwelling where three or fewer rooms are let and a breakfast is included in the rent.

D. Building:

A structure having a roof or cover for the shelter, support, or enclosure of persons, animals, or property.

E. Building Inspector:

Building Inspector shall mean the existing Inspector of Buildings under the State Building Code or other designated authority, or his duly authorized representative, appointed by the Selectmen, and charged with the enforcement of this bylaw.

F. Building Lot or Lot:

A building lot is that area of land described in an application for a building permit or an application to the Board of Appeals for a permit or a variance, or otherwise defined as the area on which a structure is to be constructed or a use is to be carried on. A building lot shall not include any part of a street. A corner lot shall be any lot abutting on two (2) or more streets at their intersection.

SECTION II

G. Dwelling:

Any building, or part thereof, used for habitation for one (1) or more persons, but not including commercial accommodations for transient occupancy or trailers or mobile homes, however mounted.

H. Dwelling Unit:

One (1) or more rooms for cooking, living, sanitary and sleeping facilities arranged for the use of one (1) or more persons living together as a single housekeeping unit, but not for more than five (5) persons unrelated by blood or marriage.

I. Fence:

A structure made of wood, wire, metal or other durable material erected so as to serve as an enclosure or a barrier against unobstructed passage from one side to the other.

J. Floor Area:

The interior floor area of a dwelling unit exclusive of basements, stair wells, halls, bathrooms, corridors, attics, walls, partitions, porches, and attached accessory buildings.

K. Garage, Private:

Covered space for the housing of motor vehicles, but not for the rental of more than two (2) stalls or commercial repair or commercial storage.

L. Green Space:

An area left as a natural or landscaped area which may include fences, signs, poles, footpaths and access driveways.

M. Hotel, Inn, Motel, Tourist Home or Lodging House:

A building, or portion thereof, or a group of buildings on a single lot, intended to be used for the temporary occupancy of three (3) or more persons who are lodged, with or without meals, and in which major provision for cooking may be made in a central kitchen but may not be in the individual rooms or suites.

N. Loading Space, Off-Street:

An off-street space or berth, on the same lot with a building, for the temporary parking of vehicles while loading or unloading merchandise or material, and which has access to a street, alley or other appropriate means of ingress or egress.

O. Marina:

A public or commercial area with docking facilities for one (1) or more of the following: the launching, docking, storage, or servicing of pleasure boats; docks and related structures for the sale of fuel, boats, or marine accessories.

SECTION II

P. Membership Club:

A private, non-profit organization, building or grounds, to include specifically country clubs and fraternities and other organizations to which membership is limited or controlled.

Q. Non-Conforming Uses, Structures and Lots:

A non-conforming use, structure or lot shall be defined in Chapter 40A, Section 6 of the General Laws.

R. Rooming or Boarding House:

A building or premises, other than a hotel, inn, motel, tourist court, or lodging house, where rooms are let and where meals may be regularly served by prearrangement for compensation; not open to transient guests; in contrast to hotels, restaurants, and tourist homes, open to transients.

S. Sign:

Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks, whether stationary or portable, by which anything is made known, such as are used to designate or locate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are visible from a public or private street or right-of-way and used to attract attention.

T. Slope:

For the purposes of the erosion control provision, slope shall be measured using the two-foot contours on the topographic map supplied with the site plans. The slope percentage will be the change in elevation divided by the shortest distance between two contour lines. Upon written permission of the permit granting authority, slope percentages may be averaged across specified horizontal distances.

U. Street:

A public way or private way either shown on a plan approved in accordance with the subdivision control law, or otherwise qualifying a lot for frontage under the subdivision control law.

V. Street Line:

The dividing line between a street and a lot and, in the case of a public way, the street line established by the public authority laying out the way upon which the lot abuts.

W. Structure:

Any construction, erection, assemblage or other combination of materials upon the land, necessitating pilings, footings or a foundation for attachment to the land, swimming pools which require a permit under the Building Code and parking lots, driveways, roads and septic systems.

X. Trailer or Mobile Home:

Trailer or Mobile Home shall mean any vehicle or object which is drawn by or used in connection with a motor vehicle and which is so designed and

SECTION II-X

constructed or added to by means of such accessories as to permit the use and occupancy thereof for human habitation, whether resting on wheels, jacks, or other foundations. It shall include the type of vehicle commonly known as a mobile home, containing complete electrical, plumbing, and sanitary facilities and designed to be installed on a temporary or permanent foundation for permanent living quarters.

Y. Wall:

A structure of stone, masonry, wood or other durable material constructed so as to retain soils or to serve as an enclosure or barrier against unobstructed passage from one side to another.

Z. Yard:

An open space, other than an enclosed court, on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and a lot line, and is not occupied or obstructed from the ground upward by a building or a structure.

1. Yard, Front:

A yard extending across the full width of the lot and lying between the street line of the lot and the nearest line of the building. The depth of a front yard shall be the minimum distance between the building and front lot line.

2. Yard, Rear:

A yard extending across the full width of the lot and lying between the building and the rear lot line.

3. Yard, Side:

A yard between the side lot line of the lot and the nearest line of the building, and extending from the front yard to the rear yard, or, in the absence of either such yards, to the front or rear lot lines, as may be. The width of a side yard shall be the minimum distance between the building and the side lot line.

SECTION III

DISTRICTS

A. Establishment of Districts:

For the purposes of this bylaw the Town of Stow is divided into the following districts:

1. Recreation-Conservation District
2. Residential District
3. Business District
- 3a. Compact Business District
4. Commercial District
5. Industrial District
6. Flood Plain/Wetlands District
7. Refuse Disposal District
8. Water Resource Protection District

B. Location of Districts:

Said districts are hereby established as shown, located, defined and bounded on a map entitled "Zoning District Map of the Town of Stow", dated April 5, 1972 signed by the Planning Board and filed with the office of the Town Clerk; which map shall also constitute an index map of all zoning districts, and together with all the maps referred to in Section III-C below and all explanatory matter thereon shall constitute the Zoning Map of the Town, herein incorporated by reference and made a part of this bylaw.

C. Location of Boundaries of Districts:

1. Where the boundary lines are shown upon said map within the street lines or utility transportation lines, the center lines of such rights-of-way or lines shall be the boundary lines unless otherwise indicated.
2. Boundary lines located outside of such street lines or transmission lines, and shown approximately parallel thereto, shall be regarded as parallel to such lines, and dimensions shown in figures placed upon said map between such boundary lines and such transmission lines are the distance in feet of such boundary lines from the center line of such lines, such distances being measured at right angles to such lines unless otherwise indicated.
3. Where the boundary lines are shown approximately on the location of property or lot lines, and the exact location of property, lot or boundary lines is not indicated by means of dimensions shown in figures, then the property or lot lines shall be the boundary lines in existence and as recorded at the time of the adoption of or amendment to the Zoning Map.
4. Contour lines used as boundary lines are the elevation above the datum mean sea level as indicated by the U. S. Geological Survey map dated 1952.
5. Soil association lines used as boundary lines are the soil association boundary lines as shown on the Soil Association Map, prepared by the

U. S. Soil Conservation Service, dated 1964, on file with the Planning Board.

6. In all cases which are not covered by other provisions of this Section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon said map, by the use of identifications as shown on the map, or by the scale of said map.
7. Boundary lines outlining wetlands districts and delineating streams are the lines shown on the IEP (Interdisciplinary Environmental Planning) Wetlands Map, Figure 13, with a scale of 1" = 800', Water Resource Study, Town of Stow, dated October 28, 1977.
8. Boundary lines outlining the flood plain of the Assabet River shall be the limits of the Standard Project Flood Modified delineated on the plan entitled "Flood Plains & Profiles", sheets 2, 3, and 4 of the Assabet River Technical Report, Department of the Army, Corps of Engineers, dated June, 1966 and on file with the Town Clerk. Boundary lines outlining the flood plain of Heath Hen Meadow Brook shall be the limits of the 100-year design storm flood plain delineated on the plan entitled "Flood Plain - Plan and Profile Heath Hen Meadow Brook, Stow, Massachusetts" by BSC Engineering, Inc., dated February 21, 1975, revised May 2, 1975, and on file with the Town Clerk. Boundary lines of the flood plain elsewhere in the Town shall be the limits of the "Special Flood Hazard Areas" delineated on maps entitled "FIA Flood Hazard Boundary Maps", Nos. HO-1 - HO-11 inclusive, Town of Stow, revised December 6, 1977 and on file with the Town Clerk.
9. Where the limit of the Standard Project Flood Modified, referenced above, is used as a district boundary, the district boundary shall be determined by the elevations delineated on said plan.
10. The boundaries of the Water Resource Protection District are as delineated on a map entitled "Water Resource Protection District Map - Town of Stow, Massachusetts" dated May 1, 1987, at a scale of 1 inch = 800 feet, on file in the office of the Town Clerk.

SECTION IV

Continuance of Existing, Non-Conforming Uses and Structures:

A pre-existing, non-conforming use or structure may continue. However:

A. No pre-existing, non-conforming uses or structures may be extended or altered except upon application for a Level 2 special permit and a finding by the Board of Appeals that such change is not substantially more detrimental to the neighborhood than the existing non-conforming use. The extent of the non-conforming use of a structure may be increased up to one hundred (100) percent of the floor area and the extent of the non-conforming use of the land may be increased up to twenty-five (25) percent of the ground area. These limits may be further extended upon Level 2 special permit granted by the Board of Appeals.

All applications for extensions and/or alterations shall include a scaled floor plan of the structure(s) in question showing floor area and ground coverage prior to and following the proposed changes in order to determine the degree to which the use has expanded from its original size. All applications for such Level 2 special permits shall include such information and plans as required for a Level 1 special permit as required in Section VII.F. Applicants shall also comply with the following site planning standards for "non-conforming uses or structures".

1. It shall comply with the parking requirements of Section VI.D., except as superseded by 4., 5. and 6. below.
 2. It shall comply with the sign regulations of Section VII.E.
 3. It shall comply with the general regulations of Section VI.F.
 4. 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.
 5. Parking and outdoor storage of materials or products shall be screened from the view of abutting properties and the view from public ways by vegetative screens, opaque fencing or topography.
 6. There shall be sufficient space and provision on site for the maneuvering of vehicles so as to allow loading and unloading of materials and products without impeding the flow of traffic along public ways or blocking pedestrian sidewalks, paths and rights of way.
- B. If said non-conforming use has been changed to a more restricted use, it shall not again be changed to a less restricted use.
- C. If the non-conforming use is discontinued or abandoned for a period of two (2) years or more, it shall not be re-established except upon a Level 2 special permit granted by the Board of Appeals.
- D. A non-conforming single or two-family dwelling or agricultural structure which has been damaged or removed may be rebuilt or restored at the same

SECTION IV-D

location and again used as previously, provided that the owner shall start operations for restoring or rebuilding on said premises within twelve (12) months after such damage or removal and reconstruction is completed and occupancy begun within two (2) years of start of restoration except upon a Level 2 special permit for a longer period of time granted by the Board of Appeals.

SECTION V

New Construction and New Uses:

- A. No building, structure or land, or part thereof, may be constructed, altered, enlarged, repaired or moved, occupied and used for any purpose which violates any section of this bylaw or any of the provisions of the bylaws of the Town of Stow.
- B. Only one main building may be built or placed on any lot within the Town except within a business district. Any main building hereafter erected shall be on a lot which has frontage upon a street as defined by this bylaw.
- C. A lot on which there existed at the time of the adoption of this bylaw two (2) or more dwelling houses may be divided into as many lots as there were dwelling houses thereon, providing the lot is divided in such manner that the resulting lots shall conform to the area and frontage requirements of this bylaw, except upon Level 2 special permit granted by the Board of Appeals. No other lot may be changed so as to result in a lot or lots having less than the minimum area and frontage requirement.
- D. No building except piers, wharfs or other structures to service boats shall be erected below the flood contour lines as shown on the maps and plans set forth in Section III-C.8. of this bylaw, as indicated on and incorporated in by reference on the zoning map accompanying this bylaw, except upon a Level 2 special permit granted by the Board of Appeals as hereinafter provided for in Section VI-G.1.9.
- E. Any construction or use for which a permit was legally issued prior to the adoption of this bylaw or any amendment thereto shall be permitted, notwithstanding non-compliance with the requirements of this bylaw or amendment thereto, provided such construction or use was commenced within six (6) months after the issuance of the permit and carried on to completion within two (2) years, unless a Level 2 special permit for a longer period of time is granted by the Board of Appeals.
- F. This section is intended to provide additional rights to build single family dwellings on certain lots in the Residential District that do not conform to zoning area and frontage requirements in effect, and is in no way intended to limit any rights set forth as to such lots in Chapter 40A, as from time to time amended. The Board of Appeals shall grant a Level 2 special permit for the construction of a single-family dwelling to the owner of any lot of at least 40,000 square feet area and at least 150 feet of contiguous lot frontage in the Residential District, which was separately shown, laid out or described in a plan, deed or certificate of title duly recorded or registered at the Middlesex South District Registry of Deeds, and met all requirements of the Zoning Bylaws then in effect, prior to the first publication of notice of the public hearing required before any amendment of the Zoning Bylaw pursuant to said Chapter 40A, increasing such area or frontage requirements, or both, for a residential lot, and situated on a street as defined in the Zoning Bylaws open for use by the public at such date of publication, upon a finding that the conditions in subsection 1 are met.

SECTION V-F

1. Any adjoining lot to the lot described in the application for a Level 2 special permit, held in common ownership with the lot described in the application for the Level 2 special permit, had an existing lawful building thereon, or a building permit had issued for such a building (on which construction was commenced within six (6) months from the date of the permit and continued through to completion as continuously and expeditiously as reasonable) before the date of publication of the first notice of the public hearing on the amendment to the Zoning Bylaws, increasing such area or frontage requirements, so that such adjoining lot is not available for use in combination with the lot which is the subject of the application at the time of filing the application.
2. Provided, however, that the Board of Appeals shall grant such Level 2 special permit for only one lot to any owner owning such lot in common with a lot unavailable for use in combination therewith as defined in this section which permit shall run with the land; and shall impose as conditions to such Level 2 special permit that any proposed dwelling is to be located on such lot so as to conform with all other minimum requirements of front, side and rear yard setbacks of the Zoning Bylaws in effect; and the further condition that, unless the lot is sold and thereafter is in separate ownership, a Level 2 special permit granted under this section shall lapse within a specified period of time, not more than two (2) years thereafter if a building permit has not been issued and construction has not begun by such expiration date except for good cause shown and an extension of such Level 2 special permit by the Board of Appeals granted upon a showing of good cause.
3. Provided further, that the Board of Appeals may impose additional conditions and safeguards, where appropriate, to assure harmony with the general purpose and intent of the Zoning Bylaws.

SECTION VI

Use Regulations

A. Recreation-Conservation District:

This district is intended to protect the public health and safety, to protect persons and property against hazards of flood water inundation and unsuitable and unhealthy development of unsuitable soils, swamp land, marsh land and water courses; to protect the balance of nature, including the habitat for birds, wildlife, and plants essential to the survival of man; to conserve and increase the amenities of the Town, natural conditions and open spaces for education, recreation, agriculture, and the general welfare.

1. Uses Permitted, provided that no buildings are located within one hundred (100) feet of a district boundary line:
 - a. Conservation areas for water, water supply, plants, and wildlife, dams necessary for achieving this purpose.
 - b. Farming and horticulture, including raising, harvesting and storing crops, truck gardening, grazing, dairying, and poultry and livestock raising, but not including piggeries or the raising of animals for fur.
 - c. Orchards, nurseries, forests, and tree farms, provided that any logging equipment or other equipment necessary for these uses is normally stored in an enclosure, or is not visible from district or property boundaries.
 - d. Non-commercial recreation, including municipal, county or state parks and boat landings, but not an amusement park.
 - e. Display and sale or offering for sale, of farm produce from uses permitted in paragraphs b. and c. above, and products normally sold therewith, provided that:
 - (1) At least 51% of gross annual sales is from produce raised by the owner, operator or lessee of the stand, and at least 90% of gross annual sales is farm produce.
 - (2) No stand for such sale is located within twenty-five (25) feet of the street sideline.
 - (3) Provision is made for off-street parking in accord with Section VII-D.
 - f. Accessory buildings and uses.
2. Uses permitted subject to Level 1 special permit as provided in Section VII-F, provided that provisions for disposal of waste products is approved by the Board of Health and parking is provided as required in Section VII-D:

SECTION VI-A-2

- a. Restaurants, provided that their use is in connection with a permitted use, and provided that no such building be located within one hundred (100) feet of a district boundary line.
- b. Country clubs or other membership clubs.
- c. Commercial picnic areas and swimming areas.
- d. Day camps, overnight camps, and camp sites, where occupancy is limited to the period between May 15th and September 15th, provided that there is only one camp building or site for each 3500 square feet of grass area.
- e. Recreation, including golf courses, ski areas and tows, marinas and commercial boat landings, but not an amusement park.

B. Residential District:

The Residential District is intended as a district for typical rural, single-family residential and non-commercial uses.

1. Uses Permitted:

- a. Conservation areas, farming and horticulture, orchards, nurseries, forests, and tree farms, display and sale, or offering for sale, of farm produce, all as permitted in the Recreation-Conservation District.
- b. Single-family detached buildings.
- c. Boarding houses or rooming houses for not more than two (2) persons, provided that the house is also occupied as a private residence by the owner.
- d. Playgrounds where approved as part of a subdivision plan.
- e. Keeping of pets and animals for use of the residents of the premises.
- f. Storage of farm vehicles, and, subject to the provisions of Section VII-D-2-b, school buses.
- g. Professional office or home occupation, provided that:
 - (1) The profession or home occupation is conducted by a resident of the premises.
 - (2) The use is clearly 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 Section VII-E.
 - (7) There is no on-street parking permitted for any employee or visitor in connection with such use.
 - (8) The use does not present a safety or health hazard to the public.
- h. Accessory uses and buildings, including such normal accessory uses as private garages, storage sheds, tennis courts, swimming pools,

cabanas for swimming pools, gazebos, and structures approved by Civil Defense authorities and designed for use by the inhabitants, employees or customers of the property to which it is accessory, and used for shelter from natural disaster or war, and detached fireplaces, but not including the outdoor parking of trucks or buses.

- i. Bed and Breakfast Home, provided that off-street parking, one parking space per guest room, is available.
2. Uses Permitted, subject to Level 1 special permit as provided in Section VII-F and upon Level 2 special permit granted by the Board of Appeals:
 - a. Private schools and colleges, with or without dormitory facilities, including nursery and kindergarten schools, dance and music studios, provided adequate parking areas are provided.
 - b. Playgrounds, unless approved as part of a subdivision plan.
 - c. Conversion of a one-family dwelling, existing at the time of the original adoption of this section of the bylaw, into a two-family dwelling, provided that the exterior appearance is not altered and that there is sufficient floor and ground area above the minimum requirements as provided in Section VII-B.
 - d. Non-commercial recreation, including golf courses, ski areas and towns, municipal, county or state parks (but not an amusement park), boating, fishing, hunting (where legally permitted), marinas, landings, and any other non-commercial recreation use.
 - e. Veterinary hospitals, stables and kennels, raising or breeding animals for sale, and boarding animals, provided that no such buildings are located within one hundred (100) feet of a lot line.
 - f. Bed and Breakfast Establishment, provided that off-street parking, one parking space per guest room, is available.
 - g. Nursing homes or elderly care facilities.
3. Accessory Residential Uses on One-Family Lots: Accessory Apartments by Right:
 - a. General Objectives:

The provisions of accessory dwelling units in owner occupied one-family dwellings or in a separate structure is intended to (1) increase the number of small dwelling units available for rent in town; (2) increase the range of choice of housing accommodations; (3) encourage greater diversity of population with particular attention to young adults and senior citizens; and (4) encourage a more economic and efficient use of the town's housing supply while maintaining the appearance and character of the town's single family neighborhoods.

b. Conditions and Requirements for a Unit in a One-Family Dwelling:

The Building Inspector shall issue a building permit for a newly created accessory apartment in a detached building or one-family dwelling in any residential district provided that the unit meets the standards of the building code and that each of the following conditions and requirements is met:

- (1) The owner of the dwelling in which the accessory apartment is created shall occupy either of the dwelling units in the structure in question, except for temporary absences of up to six months. For the purposes of this section, the "owner" shall be one or more individuals residing in a dwelling, who holds legal or beneficial title and for whom the dwelling is the primary residence for voting and tax purposes.
- (2) There shall be no more than one accessory apartment on a single lot.
- (3) That both the principal and accessory units satisfy the requirements of Title V (310 CMR 15.00) for waste water disposal and Stow Board of Health regulations.
- (4) The floor area of the accessory apartment shall not exceed 700 square feet.
- (5) The minimum lot size shall be 1.5 acres.
- (6) There shall be no more than two bedrooms in an accessory apartment.

c. Exterior Appearance of a Dwelling with an Accessory Apartment:

The accessory apartment shall be designed subject further to the following conditions and requirements:

- (1) All stairways to second and third stories shall be enclosed within the exterior walls of the dwelling.
- (2) Any new entrance to the principal dwelling unit shall be located on the side or in the rear of the dwelling. Any new entrance to the separate structure shall be to the side facing the principal dwelling unit or to the rear of the structure.
- (3) Where there are two or more existing entrances on the front facade of the principal dwelling, if modifications are made to any entrance, the result shall be that one appears to be the principal entrance and the other entrances appear to be subordinate.

d. Off-Street Parking:

There shall be provided at least two off-street parking spaces for the principal dwelling unit and at least two off-street parking spaces for the accessory unit.

4. Accessory Residential Uses on One-Family Lots: Accessory Apartments Under a Level 1 Special Permit:

A Level 1 special permit for an accessory apartment may be issued for units with less than 1.5 acres provided that

- a. All of the conditions and requirements of Section VI.B.3. are met (with the exception of Section VI.B.3.b.(5)).
- b. The conditions and requirements for approval of a Level 1 special permit are met. (See Section VII.F.)

5. Duplex Residential Uses in the Residential District Subject to a Level 1 Special Permit by the Planning Board:

a. Purposes:

The duplex option is intended

- (1) To achieve a broader range of housing choices within the community.
- (2) To stimulate more affordable housing units through the creation of duplex development on individual lots within a subdivision.
- (3) To permit a developer, public agency, or developer in conjunction with a public agency, to propose duplex development in subdivisions which shall be affordable to households whose incomes meet the Town's criteria for affordable housing.

b. Dimensional Requirements:

On lots that are proposed for subdivision, duplexes must be situated on individual lots which conform to the density and dimensional regulations of the Residential District. Each lot shall require a minimum lot size of 65,340 square feet, 43,000 square feet of which is "buildable" land. Under no circumstances will a special permit be granted for projects the construction of which is sited in whole or in part in the Water Resource Protection District (see Section VI.J.). The maximum square footage of the total duplex structure (both units combined) shall be no greater than 3,000 square feet of floor area. In no event shall duplexes be permitted on more than 25% of the lots within a subdivision.

c. General Requirements:

Two-family development in the Residential District may only occur within a proposed subdivision by obtaining a Level 1 special permit as described in Section IV and upon obtaining certification from the Board of Health that all waste disposal standards are met. Construction must commence within two years of obtaining the special permit and be completed within the two years following the start, or the permit will expire.

d. Special Permit Requirements:

Duplex development is subject to approval as provided in this subsection.

- (1) Application for a special permit under this Section shall be made to the Planning Board through the Town Clerk by submitting ten (10) copies of all submission material and paying the required application fee.
- (2) The application shall include the following:
 - (a) The Special Permit Granting Authority shall specify a submission fee in its Rules and Regulations and in no case shall the fee be less than \$350.00;
 - (b) all information required for a Level 1 special permit;
 - (c) all information required for a subdivision;
 - (d) a legally recordable document that details the long term provisions that are required for the retention of the affordable units for affordability purposes;
 - (e) information describing the projected ownership pattern of the proposed development once completed;
 - (f) a property rights plan based on an instrument survey identifying parcels, if any, to be conveyed to the Town by deed or easement;
 - (g) a site grading plan showing proposed changes in contours and identifying landscaping materials, species of plants and sizes and specific plans for any common open space.
- (3) Public Hearing

The public hearing shall be held in accordance with the provisions of Massachusetts General Laws.
- (4) Criteria of Approval

The Level 1 special permit may be approved if the Special Permit Granting Authority finds that all the following conditions are met:

 - (a) All of the criteria required for a Level 1 special permit are met (see Section VII.F); and
 - (b) There is a minimum of 10% or one dwelling unit (whichever is more) and a maximum of 40% of all dwelling units within the proposed subdivision that are affordable according to the Town's published criteria.

SECTION VI-C

C. Business District:

The Business District is intended to meet local needs for retail goods and services primarily within a building.

1. Uses Permitted, provided that the building is less than 1,000 square feet gross floor area, there is only one building per lot, all parking spaces are located only in the rear yard, and 50% of the lot area is green space.
 - a. Tourist homes, bed and breakfast establishment or home, or lodging houses.
 - b. Business or professional offices.
 - c. Retail stores, the principal activity of which shall be the offering of goods but not food at retail within the building.
2. Uses Permitted, subject to Level 1 special permit as provided in Section VII-F:
 - a. Retail stores or service establishments, the principal activity of which shall be the offering of goods or services at retail within the building.
 - b. Business or professional offices or banks.
 - c. Salesrooms for automobiles, bicycles, boats, farm implements, and similar equipment, provided there is no outside display or storage.
 - d. Restaurants or other places for serving food within the building. Specifically excluded is any establishment whose principal method of operation includes sale of food and beverages in paper, plastic or other disposable containers; and where consumption of foods and beverages on the premises outside the restaurant building or within parked motor vehicles on the premises is allowed and encouraged; or where food and beverages are served directly to the customer in a motor vehicle.
 - e. Parking areas for use of employees, customers or visitors, subject to the requirements of Section VII-D.
 - f. Accessory buildings and uses which are customary and incidental to the uses permitted.
 - g. Signs as provided in the Signs Section (Section VII-E).
3. In addition to a Level 1 special permit in accord with Section VII-F, the following uses require a Level 2 special permit from the Board of Appeals, which shall be based on satisfaction that said use will not create a nuisance by virtue of noise, odor, smoke, vibration, traffic generated or unsightliness.
 - a. Hotels, motels, tourist homes, bed and breakfast establishment or home, or lodging houses.

SECTION VI-C-3-b

- b. Theatres, bowling alleys, skating rinks, clubs or other places of amusement or assembly which occur within the building.
- c. Gasoline service stations, garages or repair shops, provided that:
 - (1) Repairs shall be limited to minor repairs and adjustments, with all repairs occurring within a building.
 - (2) There shall be no storage of motor vehicles, appliances and equipment on the premises other than those in process of repair or awaiting delivery or required in the operation of the service station, garage or repair shop.
 - (3) The area used to service, repair or store vehicles shall be paved and provided with traps to catch and retain (until removal in accordance with an approved maintenance plan) any grease, oil or other fluids.
 - (4) There shall be an area at least twenty (20) feet deep between the street line and the paved area which shall be separated from the street by a curb, and which shall be seeded and landscaped, and maintained as such, except at an entrance/exit which shall be at least twenty (20) feet but no more than thirty (30) feet wide, and at least fifty (50) feet apart, and further provided that there shall be only two curb cuts for each one hundred and fifty (150) feet of street frontage.

D. Commercial District:

The Commercial District is intended to meet local needs for goods and services.

1. Uses Permitted:

a. Conservation areas, farming and horticulture, orchards, nurseries, forests and tree farms, display and sale, or offering for sale, of farm produce, all as permitted in the Recreation-Conservation District.

2. Uses Permitted, provided that the building is less than 1,000 square feet gross floor area, there is only one building per lot, all parking spaces are located only in the rear yard, and 50% of the lot area is green space.

a. Tourist homes, bed and breakfast establishment or home, or lodging houses,

b. Business or professional offices.

c. Retail store, the principal activity of which shall be the offering of goods but not food at retail within the building.

d. Salesrooms for bicycles, boats and farm implements, provided that no more than 30% of the lot area is used for building, parking and display areas.

3. Uses Permitted, subject to Level 1 special permit as provided in Section VII-F:

a. Funeral homes, mortuaries or crematories.

b. Salesrooms for automobiles, bicycles, boats, farm implements, and similar equipment.

c. Building materials salesrooms and yards, utility structures, contractor's yards, storage warehouses, buildings and yards and wholesale distribution plants, provided that all loading and unloading is done at the rear of the building in covered berths with walls on three (3) sides, and provided all materials and equipment stored outside are screened from view from public ways or abutting properties by an opaque fence or screening at least six (6) feet high but not more than twenty (20) feet high except that items on display for retail sales need be screened only from properties in a Recreation-Conservation or Residential District on the same side of the street.

d. Utility structures, passenger depots and terminals.

e. Printing, publishing or commercial reproduction or photo-processing establishments, offices, medical or dental laboratories, and research laboratories with incidental assembly or manufacture.

SECTION VI-D-3-f

- f. Restaurants or other places for serving food within the building. Specifically excluded is any establishment whose principal method of operation includes sale of food and beverages in paper, plastic or other disposable containers; and where consumption of foods and beverages on the premises outside the restaurant building or within parked motor vehicles on the premises is allowed and encouraged; or where food and beverages are served directly to the customer in a motor vehicle.
- g. Screened storage, accessory buildings and uses.
- h. Parking areas or garages for use of employees, customers or visitors, subject to design standards in Section VII-D.
- i. Bed and breakfast establishment or home.

E. Industrial District:

The Industrial District is intended for use by research laboratories, office buildings and selected light industries which are compatible with a low-density, rural residential community.

1. Uses Permitted:

a. Conservation areas, farming and horticulture, orchards, nurseries, forests and tree farms, display and sale, or offering for sale, of farm produce, all as permitted in the Recreation-Conservation District.

2. Uses Permitted, provided that the building is less than 1,500 square feet gross floor area, all parking spaces are located only in the rear yard, and 50% of the lot area is green space.

a. Research laboratories with incidental assembly or manufacture.

b. Office buildings.

3. Uses Permitted, subject to Level 1 special permit as provided in Section VII-F:

a. Research laboratories with incidental assembly or manufacture.

b. Office buildings.

c. Manufacturing enterprises, provided that such activities will not be offensive, injurious, dangerous to the public health or noxious because of sewage or refuse, vibration, smoke or gas, fumes, dust or dirt, odors, dangers of combustion or unsightliness.

d. Parking areas or garages for use of employees, customers or visitors, subject to design standards in Section VII-D.

e. Screened storage, accessory buildings and uses.

f. Cafeterias for employees, when contained in the same structure as a permitted use.

g. All uses as permitted in the Recreation-Conservation District.

h. Conversion of existing residence to bed and breakfast establishment or home.

F. General:

1. Use regulations pertaining to all Districts:

a. Building construction:

All buildings shall be constructed as prescribed by the State Building Code.

b. Odor, dust and smoke:

No such offensive emissions shall be discernible beyond the property line or, in the case of an industrial park development or of multiple use of the property, beyond one hundred (100) feet of the building generating the emission, except that in no case shall the discharge from any source exceed the following limits:

- (1) Smoke measured at point of discharge into the air shall not exceed a density of No. 1 on the Ringlemen Smoke Chart as published by the U. S. Bureau of Mines, except that a smoke of a density not darker than No. 2 on the Ringlemen Chart may be emitted for not more than three (3) minutes in any one (1) hour.
- (2) Line dust, as CaO, measured at the property line of any lot on which the activity creates such dust, shall not exceed ten (10) micrograms per cubic meter of air.
- (3) Total particulate matter measured at all stacks or other points of emission to the air shall not exceed thirty (30) grams per hour per acre of land included in the lot.
- (4) Odors shall not exceed the smallest values given in Table III (Odor Thresholds) in Chapter 5 of the "Air Pollution Manual" Manufacturing Chemists Association, Inc., Washington, D. C. 1951.
- (5) All measurements of air pollution shall be by the procedures, and with equipment, approved by the Building Inspector, which procedures and equipment shall be of the latest generally recognized development and design readily available.

c. Noise:

The noise generated on any lot, measured at any point beyond the property lines of the lot on which the noise source is located, shall not cause the total sound level to be more than three (3) decibels above the natural ambient sound level except as provided below:

- (1) For not more than five (5) minutes in any one (1) hour the noise generated shall not cause the total sound level to be more than ten (10) decibels above the natural ambient sound level.

- (2) For not more than sixty (60) minutes in any seven (7) day period the noise generated shall not cause the total sound level to be more than thirty (30) decibels above the natural ambient sound level.
- (3) Noise making devices which are maintained and are utilized strictly to serve as safety warning devices are excluded from these regulations.

Measurements shall be conducted by personnel approved by the Building Inspector using the "A" weighting on a standard commercial total sound level instrument approved by the Building Inspector. For the purpose of this bylaw the natural ambient sound level shall be assumed to be forty (40) decibels above 0.0002 microbar during hours of daylight, and thirty (30) decibels above 0.0002 microbar at all other times.

d. Heat, glare, vibration, and radiation:

No heat, glare, or vibration shall be discernible without instruments from the outside of any structure, and no radiation shall be discernible from the outside of the structure with or without instruments.

e. Exterior lighting:

No exterior lighting, other than street lighting approved by the Selectmen, shall shine on adjacent properties or towards any street in such a manner as to create a nuisance or hazard.

f. Screening, surfacing, parking, and signs:

As provided in Section VII of this bylaw.

g. Waste disposal and water supply:

Regulations of the State Board of Health and the Stow Board of Health shall be met and shall be indicated on a site plan, when a site plan is required.

h. Scientific Uses:

Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a Level 2 special permit provided the granting authority finds that the proposed accessory use does not substantially derogate from the public good.

i. Drainage:

When a subdivision approval or a Level 1 or Level 2 Special Permit is required drainage shall be designed so that the following conditions shall be met during and after construction and development:

SECTION VI-F-1-i

- (1) Pre-development surface water runoff rates and volumes shall not be increased; and
- (2) Pre-development ground water infiltration rates shall not be increased; and
- (3) Pre-development erosion and sedimentation rates shall not be increased; and
- (4) No building permit, special permit or subdivision approval shall be granted if these conditions cannot be met.

j. Erosion control:

Site design and materials and construction processes shall be designed to avoid erosion damage, sedimentation or uncontrolled surface water run-off.

- (1) Grading or construction which will result in slopes of twenty-five percent (25%) or greater on fifty percent (50%) or more of the lot area or on thirty-two thousand (32,000) square feet or more on a single parcel, even if less than half of the lot area, shall be allowed only under special permit from the Planning Board. This shall be granted only upon demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled degradation. Applications and plans for such special permits shall be referred to the Conservation Commission.
- (2) Where j.(1) and j.(3) apply, all slopes exceeding fifteen percent (15%) resulting from site grading shall be covered with topsoil to a depth of at least six inches and planted with vegetative cover sufficient to prevent erosion.
- (3) No areas totaling two acres or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled six inches or more so as to destroy existing vegetation unless in conjunction with agricultural activity or unless necessarily incidental to construction on the premises under a currently valid building permit or unless within streets which are either public or designated on an approved subdivision plan or unless a special permit is approved by the Planning Board on the condition that run-off will be controlled, erosion prevented and either a constructed surface or cover vegetation will be provided not later than the first full spring season immediately following completion of the stripping operation. No stripped area or areas which are allowed by special permit shall remain through the winter without temporary cover of winter rye or similar plant material being provided for soil control, except in the case of agricultural activity when such temporary cover would be infeasible.
- (4) The Building Inspector shall require information of the applicant as necessary for him to ensure compliance with these

requirements, including if necessary, elevation at key locations, description of vegetative cover and the nature of impoundment basins proposed, if any.

- (5) Where resultant site grades will exceed fifteen percent (15%) the Town shall require a performance bond to ensure compliance with these requirements.
- (6) Where j.(1) and j.(3) apply, hillside areas shall be retained with vegetative cover as follows:

<u>Average Slope</u>	<u>Minimum % of Land to Remain in Vegetation</u>
10.0 - 14.9	25
15.0 - 19.9	40
20.0 - 24.9	55
25.0 - 29.9	70
30.0 +	85

- 2. Use regulations pertaining to the Business, Commercial, and Industrial Districts:

- a. Storage:

All materials, supplies and equipment shall be stored in accord with Fire Prevention Standards of the National Board of Fire Underwriters and shall be screened from view from public ways or abutting properties by an opaque fence or screening at least six (6) feet but not more than twenty (20) feet high.

- b. No open burning is permitted, unless in an incinerator of a type approved by the Board of Selectmen.

SECTION VI-G

G. Flood Plain/Wetlands District:

The Flood Plain/Wetlands District is intended to protect the public health and safety, persons and property against the hazards of flood water inundation; to preserve and maintain the ground water table; to protect the community from the costs which may be incurred when unsuitable development occurs in swamps, marshes, along water courses, or in areas subject to floods; and to conserve natural conditions, wildlife, and open spaces for the education, recreation and general welfare of the public. The provisions applicable to the Flood Plain/Wetlands District shall be considered as overlapping other zoning districts. In those cases where the Flood Plain/Wetlands District overlaps another zoning district, the provisions of the Flood Plain/Wetlands District shall be controlling.

1. Uses permitted:

- a. Conservation areas for water, water supply, plants and wildlife, and dams necessary for achieving this purpose.
- b. Farming and horticulture, including raising and harvesting crops, truck gardening, grazing and livestock raising, but not including piggeries or the raising of animals for fur.
- c. Nurseries, forests and tree farms, provided that any equipment necessary for these uses is normally stored so it is not visible from district or property boundaries.
- d. Recreation, including golf courses, municipal, county or state parks (but not an amusement park), boating, fishing, hunting (where legally permitted), marinas, landings and any non-commercial recreation use.
- e. In a business, commercial or industrial district, any of the foregoing uses which are conducted for profit, or for which a fee or similar charge is made, are allowed within the Flood Plain/Wetlands District, provided such uses are otherwise permitted in the district overlapped by the Flood Plain/Wetlands District.
- f. Subject to General Laws, Chapter 131, Section 40 and 40A access across land within the district overlapped.
- g. The Board of Appeals may grant a Level 2 special permit to allow any use or structure otherwise permitted in the district overlaid by the Flood Plain/Wetlands District if it is clearly shown that the land intended for said use or structure is included within the Flood Plain/Wetlands District through mapping error, or that no portion of said proposed new use or structure will be below the flood plain elevation as defined in this bylaw.

H. Compact Business District:

The Compact Business District is intended as a district to provide certain limited business uses within a structure.

1. Uses Permitted: same as Residential District 1. a, b, c, d, e and h.
2. Uses Permitted, subject to Level 1 special permit as provided in Section VII-F:
 - a. Retail store or service establishment, the principal activity of which shall be the offering of goods or services at retail within the building.
 - b. Business or professional office or banks or U. S. Post Office.
 - c. Parking areas or garages for use of employees, customers or visitors, subject to design standards in Section VII-D.
 - d. Accessory buildings and uses.
 - e. Signs as provided in Section VII-E.

SECTION VI-I

I. Refuse Disposal District:

The Refuse Disposal District is intended to provide for the safe and sanitary disposal of refuse which is generated within the Town of Stow.

1. Uses permitted, subject to Level 1 special permit as provided in Section VII-F:
 - a. All uses permitted in the Industrial District as provided in Section VI-E, subject to all requirements and limitations contained in the Zoning Bylaw for construction or use in the Industrial District, or otherwise applicable to all districts or any overlying district.
2. Uses permitted subject to Level 1 special permit as provided in Section VII-F, and the issuance of a Level 2 special permit granted by the Board of Selectmen for the following, collectively or individually called a "refuse disposal facility" for refuse:
 - a. Sanitary landfill.
 - b. Refuse transfer station.
 - c. Refuse incinerator.
 - d. Any other facility for treating or disposing of refuse.

Such Level 2 special permit may be granted by the Selectmen only upon making such findings as are necessary therefor under Chapter 40A of the Massachusetts General Laws, as amended, and on such further terms, conditions, safeguards and limitations on time or use as are necessary and appropriate therefor. Provided, however, that only one such permit shall exist at any time, except that two or more may be issued for "refuse disposal facilities" located adjacent to an existing "refuse disposal facility" for which a Level 2 special permit under this section has been granted, or, if at the sole discretion of the Selectmen, a need exists for the issuance of more than one such permit for a non-adjacent site during a transition period from use of one site to another.

Such Level 2 special permit shall lapse within two (2) years from the issuance thereof if a substantial use or construction has not commenced, except that for good cause shown, the Selectmen may in their sole discretion grant an extension thereof. Such Level 2 special permit shall limit the intended use to a "refuse disposal facility" for municipal purposes, to be used solely by the Town of Stow.

"Refuse" shall mean all solid or liquid waste materials, including garbage and rubbish, but not including sewage.

J. Water Resource Protection District:

The Water Resource Protection District is intended to protect, preserve and maintain the existing and potential ground water supply and ground water recharge areas within the town; to preserve and protect present and potential sources of ground water supply for the public health and safety; and to conserve the natural resources of the town. The Water Resource Protection District shall be considered as overlying other zoning districts and the provisions of the Water Resource Protection District shall be controlling, and any uses permitted in the portions of the underlying districts shall be permitted subject to all the provisions of this Section (VI-J). Prohibitions of land use in the underlying districts shall not be modified by the conditions of the Water Resource Protection District.

1. Uses permitted provided that all necessary permits, orders or approvals required by local, state or federal law shall have been obtained:
 - a. All uses of the underlying district provided that no such use on any lot or parcel shall as to that portion of said lot or parcel within the Water Resource Protection District
 - (1) Result in the disposal of any waste material, solid or liquid, other than sanitary wastes, brush and stumps.
 - (2) Generate on-site sewage disposal exceeding 110 gallons per day per 10,000 square feet of lot area, except as provided in Section J.2.c. below. For the purposes of this bylaw, such volumes are to be estimated as provided in Title 5, Sanitary Sewage, of the State Environmental Code.
 - (3) Conduct any activity which involves as a principal or accessory use the manufacture, process, storage, application, transportation and/or disposal of toxic or hazardous materials where such activity would involve outside storage, on-site waste disposal except as provided in Section J.2. below, or uncontrolled drainage facilities which would allow discharge to surface or ground water.
 - (4) Dispose of snow brought in from outside the District.
 - (5) Involve the storage for sale of fuel, oil or gasoline or, except as allowed in Section J.2.d., involve outdoor storage of road salt, or other deicing chemicals, fertilizers, herbicides or pesticides.
 - (6) Store underground and/or transmit oil, gasoline or other liquid petroleum products, excluding liquified petroleum gases.
 - (7) Involve mining of the land, except as allowed in Section J.4.c.
 - (8) Render impervious, by any means, more than ten percent (10%) of the lot area proposed for development within the Water Resource Protection District or 5,000 square feet of said district, whichever is greater.

SECTION VI-J-1-a

- (9) Use septic system cleaners containing hazardous material.
 - (10) Damage the underlying ground water. For the purposes hereof the following uses shall be considered to damage the underlying ground water: automotive service and repair shops; junk and salvage yards; truck and bus terminals; car wash establishments; painting, wood preserving or furniture stripping establishments; dry cleaning establishments; metal plating, finishing, polishing or etching establishments; or any other similar use determined by the Board of Health or its sanitary agent to damage the underlying ground water.
- b. Conservation of soil, water, plants and wildlife.
 - c. Outdoor recreation, foot, bicycle and/or horse paths, nature study, boating, landings, bridges, fishing or hunting where otherwise legally permitted.
 - d. Proper operation and maintenance of existing dams, splash boards and other water control, supply and conservation devices.
 - e. Farming and horticulture, including raising, harvesting and storing crops, truck gardening, grazing, dairying, orchards, nurseries, forests and tree farms, and poultry and livestock raising but not including piggeries or the raising of animals for fur, provided that fertilizers, herbicides, pesticides and other leachable materials are not stored in any manner which would permit leakage thereof; the appropriateness of the management practices shall be governed by USDA or Soil Conservation Service, or Cooperative Extension Service or Massachusetts Department of Food and Agriculture's guidelines and use regulations.
 - f. Necessary public utilities and facilities, provided they are designed to prevent contamination of ground water.
 - g. Construction of buildings, structure and other facilities for parking and other uses as are appurtenant thereto, provided that except to the extent of naturally occurring pH and temperature components of surface water quality and ground water quality standards, runoff waters leaving the developed site via surface flow shall remain unimpaired as to quality.
 - h. Maintenance, replacement and repair of existing buildings or structures.
 - i. Home heating storage tanks, provided that the contents thereof are for heating the premises and that the tanks are contained within the building.
 - j. Liquified petroleum gas storage tanks.
2. Uses permitted where allowed in the underlying zoning district, subject to a Level 1 or Level 2 special permit, pursuant to the applicable provisions of Section VII, granted by the appropriate Special Permit Granting Authority as provided therein:

- a. Expansion of existing nonconforming uses to the extent allowed in the underlying District. The Special Permit Granting Authority shall not grant such approval unless it shall find that such expansion shall not be more detrimental to the ground water supply than the existing use.
 - b. Any use involving on-site disposal of process wastes.
 - c. Generation of on-site sewage disposal exceeding 110 gallons per day per 10,000 square feet of lot area.
 - d. Above ground or indoor storage of toxic or hazardous materials totaling more than fifty gallons liquid volume or twenty-five pounds dry weight, except as allowed in Section J.1.i.
3. a. In addition to the usual requirements in applying for a Level 1 or Level 2 special permit, each applicant for a special permit hereunder shall provide the following additional information at the time the application is filed:
- (1) A complete list of all chemicals, pesticides, fuels and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use, accompanied by a description of measures proposed to protect all storage containers/facilities from vandalism, corrosion and leakage and to provide for control of spills.
 - (2) A description of potentially toxic or hazardous wastes to be generated, indicating storage and disposal methods.
 - (3) Evidence of approval by the Massachusetts Department of Environmental Quality Engineering (DEQE) of any industrial waste treatment or disposal system or any waste water treatment system subject to 310 CMR 15.02.
 - (4) Analysis by a technically qualified expert certifying that during the normal operation of the proposed use the quality and supply of the underlying ground water resources will not be degraded from existing conditions.
- b. The Special Permit Granting Authority may grant such a special permit provided that it finds in addition to such other findings as are otherwise required by the zoning bylaws that such use permitted thereby
- (1) Meets the purpose and intent of this bylaw and will not derogate from the purpose of the Water Resource Protection District.
 - (2) Satisfies the requirements for design set forth in Section J.4. below.
 - (3) Will not, during construction or thereafter, impair existing ground water quality or reduce existing recharge capacity beyond that allowed by Section J.1.a.(8) of this bylaw.

- (4) Will not adversely affect the quality or the yield of an existing or potential ground water supply.
4. The above uses permitted pursuant to Sections J.1. and J.2. shall be permitted only upon satisfaction of the following design requirements:
- a. Where a portion of the lot is located partially outside the Water Resource Protection District, site design shall to the extent feasible, locate potential pollution sources, such as on-site disposal systems, outside the district boundaries.
 - b. Roof, parking and drive runoff shall be recharged on the site, diverted toward areas covered with vegetation for surface infiltration to the maximum extent practicable. Runoff from parking areas of 5,000 square feet or more shall be discharged to oil-gas trap catch basins with appropriate sumps prior to recharge.
 - c. Mining of land or excavation for earth, sand, gravel and other soils shall not extend closer than five feet above the maximum ground water elevation, except to provide for structural foundations, holding ponds for drainage purposes and utility conduits. Exposed land shall be returned to its natural vegetative state when excavation is complete.
 - d. Any additional net runoff volume shall not be diverted beyond the boundaries of this District.
 - e. Risk of pollution through accidental spillage of hazardous materials shall be reduced through use of secure storage areas, impermeable diked catchments, separated drainage systems from an area where toxic or hazardous materials are stored or handled, or similar measures, which shall at the minimum meet any requirements of any governmental agency and shall in general conform to any standards established for such purpose by any industry or other private organization.
 - f. Process wastes from operations other than personal hygiene and food for residents, patrons and employees shall be treated so that contaminant levels in ground water resulting from such disposal will not exceed those levels specified in 310 CMR 22.00, or existing levels where such existing levels are higher.
 - g. All runoff from impervious surfaces shall be recharged on the site by being diverted toward areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are not feasible and shall be preceded by oil, grease and sediment traps to facilitate removal of contaminated solids. No discharge directly into surface waters without intervening mitigative measures will be allowed.
5. For the purposes of the Water Resource Protection District, the terms used herein shall have the following definitions:
- a. Aquifer: A geologic formation, group of geologic formations, or part of a geological formation that contains sufficient saturated permeable material to yield significant quantities of water to wells and springs.

- b. Existing Conditions: As referred to in this bylaw means conditions in existence on the date that the first publication of notice of this bylaw appears in accordance with Chapter 40A, Sections 5 and 6 of the Massachusetts General Laws.
- c. Ground Water: All water beneath the surface of the ground.
- d. Hazardous Material: A substance which because of quantity, concentration or physical or chemical characteristics poses a hazard to human health, safety, welfare or the environment, when improperly treated, stored, transported, used or disposed, or otherwise managed; this includes but is not limited to any substance set forth or deemed a hazardous material in Massachusetts General Laws Chapter 21C and 21E, 310 CMR 30.00 of the Code of Massachusetts Regulations or pursuant to any bylaws or regulations of the Town of Stow.
- e. Impervious Surface: A surface impenetrable by water.
- f. Mining of Land: The removal of geologic materials such as topsoil, sand and gravel, metallic ores or bedrock.
- g. Process Wastes: Nondomestic, nontoxic, nonhazardous, liquid or solid waste by-products associated with the manufacture or preparation of a product, including but not limited to hardware, dry goods, foodstuffs and printed material.
- h. Recharge Area: An area in which water is absorbed that eventually reaches the zone of saturation in one or more aquifers.
- i. Sanitary Wastes: Waste waters arising from ordinary domestic water use as from toilets, sinks and bathing facilities and containing normal wastes. For purposes of this bylaw, all references to disposable volume(s) of sanitary wastes refer to design standards as outlined in Title V of the State Environmental Code (310 CMR 15.00).
- j. Solid Wastes: Any discarded solid material, putrescible or non-putrescible, consisting of all combustible and noncombustible solid material including, but not limited to, garbage and rubbish.
- k. Zone of Saturation: The subsurface zone occurring below the water table where the soil pores are filled with water and the moisture content equals the porosity.

SECTION VII

Development of Sites and Location of Buildings and Structures

A. Height Regulations:

1. The height of any building or structure shall not exceed thirty-five (35) feet unless a Level 1 special permit has been granted in accord with Section VII-F when there is no obstruction to scenic views from public ways or properties, except that in no case shall the height exceed the limits permitted by Section 35A of Chapter 90 of the General Laws as inserted by Chapter 756 of the Acts of 1960 and any more restrictive amendments thereto. Radio towers, chimneys, broadcasting and television antennae, bulkheads, cooling towers, water towers, ventilators and other appurtenances shall in no event exceed one hundred (100) feet in height, and amateur radio towers and antennae shall not exceed one hundred fifty (150) feet in height, and further provided that if the use requires a permit or license for the intended use from any governmental authority, one has been granted.
2. Height shall be measured as the vertical distance from the average ground elevation around the exterior walls of the structure, or, in the case of built-up land, the highest elevation at the site prior to such change in contour, to the highest point of the roof surface in the case of a flat roof, and to the mean height between eaves and ridge in the case of a pitched roof.
3. Limitations of height shall not apply to spires, domes and steeples.

B. Area, Frontage, Yard, and Floor Area Requirements:

No building shall be erected unless in conformity with the requirements on the Table following, except:

1. eaves, sills, cornices, belt cornices and window awnings may project up to two feet into the required yard;
2. on a corner lot in order to provide unobstructed visibility at intersection, no sign, fence, wall, tree, hedge, or other vegetation, and no building or other structure more than three (3) feet above the established street grades measured from a plane through the curb grades or the height of the crown of the street, shall be erected, placed or maintained within the area formed by intersecting street lines and a straight line joining said street lines at points which are twenty-five (25) feet distant from the point of intersection, measured along said street lines;
3. further, no yard, lot area or open space required for a building by this bylaw, shall, during the existence of such building, be occupied by or counted as open space for another building. Not lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed in this bylaw.
4. In no case shall a building or structure or sewage disposal area hereafter be located, constructed or substantially improved in a Flood

Plain/Wetlands District or within one hundred (100) feet of the bank or boundary of a stream, river, watercourse, flood plain or wetland except as provided in Section V-D and Section VI-G-1-g. "Substantial improvement", for the purposes of this section, shall mean any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the actual cash value of the structure either before the improvement is started or in the case where the structure has been damaged and is being restored, before the damage occurred.

5. a. Any person who submits to the Planning Board, for approval under the Subdivision Control Law, a plan of land containing twenty (20) acres or more in a Residential District may in accordance with the provisions of this Section make application to the Board of Appeals for a Level 2 special permit excepting the building lots shown on such plan in said District from the lot area and frontage requirements specified in Section VII, but not any other requirements, of the Zoning Bylaw. Prior to the granting of a permit, a plan must be submitted indicating:
 - (1) which lots are to be used as building lots and which are to remain open land, and
 - (2) on each building lot, two site lines parallel to the street between which the entire dwelling, including attached garage, if any, must lie.
- b. After notice and hearing in accordance with law, the Board of Appeals may grant such a permit if it determines that:
 - (1) The area of the tract shown on the plan is at least twenty (20) acres in a Residential District.
 - (2) The building lots shown thereon comply with the requirements of paragraph c. of this Section as to minimum and average area and as to frontage.
 - (3) The plan promotes the more efficient use of the land in harmony with its natural features and with the general intent of the Zoning Bylaw.
 - (4) The number of such lots does not exceed the number of lots which could be built upon in the tract shown on such plan without a special permit hereunder. For the purposes of this paragraph the number of lots which could be built without a special permit, shall be computed at .7 of a dwelling unit per 65,340 square feet of usable land. This calculation shall include as usable only twenty (20) percent of any land in a wetlands district or in Soil Association Muck-Whitman as shown on the General Soil Map, Town of Stow, prepared by the Soil Conservation Service, U. S. Department of Agriculture, dated 1966 and on file with the Planning Board.

- (5) The building lots shown on the plan shall each be served by an adequate water supply system approved by the Stow Board of Health.
 - (6) Each of such lots contains a site which, subject to approval of the Stow Board of Health, may be suitable for a septic disposal system.
 - (7) Each lot shall have at least ninety (90) percent of the minimum area required in paragraph c-(1) with a slope less than fifteen (15) percent.
 - (8) The open land is suitable as to location, size, shape and condition and equal to at least thirty (30) percent of the gross area shown upon the Subdivision plan and that a minimum of two (2) acres plus one (1) acre of such open land per twenty-five (25) dwelling units, or fraction thereof, shall be of land suitable for active outdoor recreation. For the purposes of this paragraph, land shall be deemed suitable for active outdoor recreation, if the slope does not exceed fifteen (15) percent, if it is not in a wetlands district, if the soil is in Soil Association Hinckley-Merrimac, Paxton-Woodbridge or Hollis-Paxton as shown on the General Soil Map, Town of Stow, prepared by the Soil Conservation Service, U. S. Department of Agriculture, dated 1966 and on file with the Planning Board, and if there is an area of at least one (1) acre suitable for playing football, baseball or similar games.
 - (9) The plan has been submitted for recommendation to the Planning Board. Failure of the Planning Board to submit a recommendation prior to the hearing as herein provided shall be construed to mean favorable recommendation.
- c. The building lots shown on any plan for which a Level 2 special permit is granted under this Section shall meet with the following requirements:
- (1) Each such lot lying in the Residential District shall contain a minimum of twenty thousand (20,000) square feet.
 - (2) Each lot lying in the Residential District shall have a minimum frontage and width of at least one hundred (100) feet, such width to be measured on a line which is the shortest distance between those segments of the side lines of the lot which lies between the two site lines specified in paragraph a.
 - (3) Those lots within the cluster, but having frontage on existing roads, must meet the frontage and area requirements of the district without regard to the provisions of this Section.
- d. All land shown on a plan for which a Level 2 special permit is granted under this Section which is not included in building lots or streets shall be Open Land. Provision shall be made by agreement, duly executed in form suitable for recording by the owner or

owners of such Open Land, that in the event that a Level 2 special permit is granted under this Section a fee interest or a lesser interest of such Open Land shall be:

- (1) Owned alone or jointly by any of the following: jointly or in common by the owners of the building lots shown on said plan in a manner in which the ownership of the Open Land runs with the title to the lots and is not separately alienable, or by an association of which the owners of the building lots (or groups of such lots) are the members, or by the Town, and
- (2) Subject to restrictions unlimited as to time that such Open Land shall be used only for conservancy in its natural state, grazing and agriculture, walking, horseback riding and/or bicycle riding, playing fields and courts, swimming pools and other recreational facilities and structures for use of the owners of the Open Land, or any combination of the foregoing. The restrictive agreement shall be in such form and contain such facts and provisions that, so far as possible under then existing law the restrictions will not terminate by operation of law.

The manner of ownership of such Open Land (or of various parcels thereof) shall be determined by the applicant and shall be subject to approval by the Board of Appeals.

Where the water supply system is located with Open Land, it shall be maintained by the Owners of the Open Land in accord with the regulations of the Board of Health established at the time of the passage of this bylaw and filed with the Town Clerk and included in the restrictive agreement.

The above provisions for ownership and restrictions shall be developed by the applicant after consultation with the Planning Board. Such restrictions shall be for the benefit of and enforceable by the Town, and if the applicant so requests, shall also be enforceable by the applicant and/or by the owners of the building lots shown on such plan. The applicant may specify subject to the approval of the Board of Appeals that such restrictions be established for the benefit of the Town by a trust enforceable by the Selectmen.

The instructions provided above shall include an agreement that open space not owned by the Town shall be maintained in accordance with standards established by the Conservation Commission of the Town of Stow at the time of the passage of this bylaw and filed with the Town Clerk and included in the restrictive agreement. The Conservation Commission shall notify the building inspector of failure to comply with these standards, and he shall take steps to cause compliance in accord with the provisions of this bylaw or initiate proceedings for the Town to take the open land without compensation, and notify the Selectmen and the owners of any non-compliance.

After notification to the owners by the building inspector of non-compliance, the Selectmen may arrange for maintenance of the land

by town labor or contract until such time as the owners arrange for maintenance in a manner satisfactory to the Selectmen and Conservation Commission or the Town takes title to the open land. The costs incurred by the Town for such maintenance shall be assessed to the owners.

- e. If all the requirements of this Section are met, the Board of Appeals may grant a permit. If in the opinion of the Board of Appeals the granting of a permit would not be in harmony with the general purpose and intent of the Zoning Bylaw, this shall be deemed good and sufficient reason for not granting a permit.
 - f. Upon application for a Level 2 special permit under Section 5 above, the Board of Appeals shall refer all matters relevant thereto to the Planning Board and shall take no final action upon such permit until the Planning Board has submitted its report or has had thirty-five (35) days from the date of receipt within which to submit such report. In said report the Planning Board shall state whether the plans and documents submitted to it are in compliance with this bylaw and shall make such recommendations as it deems appropriate.
6. In a Residential District, a lot known as a "Hammerhead Lot" may be granted by special permit by the Planning Board, using the requirements and process for a Level 1 Special Permit, provided that the Board is able to make a finding that all the following conditions have been met:
- a. The lot has a frontage of at least 50 feet;
 - b. The lot has an area of at least 180,000 square feet;
 - c. The lot has sufficient area suitable for buildings. The area suitable for buildings shall be considered sufficient if
 - (1) a circle of 150 feet in diameter, or
 - (2) a rectangle with an area of 20,000 square feet and a minimum side of 80 feetcan be drawn on the lot plan within the buildable area and not overlap any lot line or any wetlands or Flood Plain/Wetlands District;
 - d. The lot has a minimum width of 50 feet between the street line and the buildable area. A lot meets the minimum width requirement if a 50-foot diameter circle can move on the lot plan from the street line to the buildable area without overlapping or crossing any lot line or any Flood Plain/Wetlands district line;
 - e. Any building on the lot be set back at least 40 feet from every property line;
 - f. A condition of the permit be that the lot shall not be further divided;

- g. One such hammerhead lot shall be contiguous to no more than one other hammerhead lot along any and all lot line(s); and
- h. Sufficient sight distance to permit safe access to the way is provided in both directions at the point of access from the lot across its frontage. Sight distance shall be deemed sufficient if, in feet, it is equal to at least six times the posted or allowable speed (miles per hour) of the way onto which access is provided.

TABLE OF REQUIREMENTS TO BE SATISFIED ENTIRELY WITHIN EACH DISTRICT

District	Minimum Lot Area in Square Feet (1)	Min. Contiguous Lot Frontage in Feet (2)	Minimum Front Yard in Feet (3)	Minimum Side Yard in Feet (4)	Minimum Rear Yard in Feet	Max. % Bldg. Coverage of Land including Accessory Bldgs.	Minimum Floor Area per Dwelling in Sq. Ft.
Recreation-Conservation	40,000	150	50 for dwelling 150 for all other uses	100	100	10%	(5)
Residential District	65,340 (11)	200 (11)	30	25	40	25%	(5)
Business District	40,000	150	50	None, except 50 where abuts Recreation-Conservation or Residential District (6)	50 (6)	30%	
Commercial District	20,000	150	50	25 except 50 where abuts Recreation-Conservation District (6)	50 (6)	30%	
Industrial District	40,000	150	75 (6) except 150 where abuts Recreation-Conservation or Residential District	25 (6) except 150 where abuts Recreation-Conservation or Residential District	50 (6) except 150 where abuts Rec.-Cons. or Residential District	30%	
Compact Business	65,340	200	50 (8)	None (7) (8)	40 (7) (8)	30%	
Refuse Disposal	(10) 300,000	150	300 (9) (9A)	150 (9) (9A)	150 (9) (9A)	N/A	
Water Resource Protection						10% (12)	

FOOTNOTE TO CHART

- (1) To qualify under this section, water area shall not be computed beyond ten (10) feet from the shore lines. Furthermore, in any district, at least 50% of the minimum required area shall be land which is not in a wetlands or Flood Plain/Wetlands District.
- (2) Measured along the street line. For a corner lot, frontage shall be measured along one street only, including one half of the corner arc, or that portion of the corner arc not exceeding twenty-five (25) feet, whichever is less.
- (3) From a fifty (50) foot right-of-way, plus from all right-of-ways less than fifty (50) feet, an amount equal to one half the distance between the right-of-way and fifty (50) feet; provided that any front yard in a Recreation-Conservation or Residential District need only be the average of the depths of the front yards on the abutting lots, considering the front yards of abutting vacant lots as having the minimum permitted, except that in no case shall the front yard be less than forty-five (45) feet from the centerline of a street.
- (4) Except that in the case of a lot having frontage on two (2) streets, the front yard requirements apply to the side of the structure on street frontage as well as to the front.
- (5) The interior area of a single family dwelling may not be regulated or restricted. Reference is made to Chapter 40A, Section 3 of the General Laws, which in general prohibits such regulation. In addition, Chapter 40A, Section 3 provides for the application of this table to regulate agricultural, religious or educational uses.
- (6) Where a Business, Commercial, or Industrial District abuts a Recreation-Conservation or Residential District, off-street parking and loading area shall not be included within the minimum side and rear yard requirements.
- (7) Where a Compact Business District abuts a Residential District or use, off-street parking and loading areas shall be screened from said residential use.
- (7A) Where a Compact Business District abuts a Residential District, side yard is 50 feet.
- (8) Area not devoted to building, walks, parking areas and access roads shall be seeded and landscaped.
- (9) Yard requirements may be waived as a condition of the special permit for that portion of a parcel of land abutting an operational refuse disposal area. Such yard requirements are to be measured from the lot boundaries and the outer-most limits of the excavation or any building for the "refuse disposal facility".
- (9A) One hundred (100) feet must be densely planted with natural screening, or otherwise screened from view in the manner, if any, provided under the Level 2 special permit issued by the Selectmen.

SECTION VII-B - Footnote to Chart

- (10) For Industrial District uses permitted the requirements of the Industrial District shall apply, except that the minimum front yard requirement shall be three hundred (300) feet.
- (11) Except in the case of reduced frontage lots as permitted in the Residential District, each lot shall have sufficient area suitable for buildings. The area suitable for buildings shall be considered sufficient if: (a) a circle of 150 feet in diameter, or, (b) a rectangle with an area of 20,000 square feet and a minimum side of 80 feet can be drawn on the lot plan without overlapping any lot line or any wetlands or Flood Plain/Wetlands District. Each lot shall have a minimum width of at least 100 feet between the street line and the area suitable for buildings. A lot meets the minimum width requirement if a 100-foot diameter circle can move on the lot plan from the street line to the area suitable for buildings without overlapping any side or rear lot line or any Flood Plain/Wetlands District line.
- (12) For purposes of the Water Resource Protection District, this shall mean render impervious, by any means, more than ten percent (10%) of the lot area proposed for development within the Water Resource Protection District or 5,000 square feet of said District, whichever is greater.
- (13) Reference should be made to specific sections of the bylaw requiring green space in the appropriate districts.

C. Accessory Buildings:

A detached accessory building or a swimming pool may be erected in the rear or side yard area in conformance with the yard requirements of the district in which it is located. An accessory building attached to its principal building shall be considered an integral part thereof, and as such shall be subject to the front, side and rear yard requirements applicable to the principal building.

D. Off-Street Parking and Loading Areas:

1. Off-street parking and loading spaces shall be required as follows:

a. Dwellings:

One (1) parking space for each dwelling unit therein and sufficient off-street parking for visitors and employees.

b. Place of public assembly:

One (1) parking space for each three (3) seats therein or one (1) space for each sixty (60) inches of bleachers or benches, plus one (1) space for every two (2) employees thereof.

c. Schools:

One (1) parking space for each three (3) seats in the auditorium thereof.

d. Hotels, motels and other places providing overnight accommodations:

One (1) parking space for each room accommodation therein, plus one (1) space for each two (2) employees and adequate spaces for delivery vehicles.

e. Restaurants:

One (1) parking space for each table or booth, and one (1) parking space for every two (2) counter seats, plus one (1) space for each two (2) employees, and adequate spaces for delivery vehicles.

f. Other service and retail establishments:

Parking areas, exclusive of driveways, shall be in a minimum ratio of three (3) square feet of ground area to one (1) square foot of gross floor area, exclusive of storage areas, plus one (1) space for every two (2) employees, space for all company vehicles, space for visitors and loading space for all deliveries and shipping.

g. Office and all other permitted non-residential structures, except agricultural:

One (1) space for each one thousand (1,000) square feet of gross floor area, plus one (1) space for every two (2) employees, space for all company vehicles, space for visitors and loading space for all deliveries and shipping.

- h. Notwithstanding the above requirements, minimum parking areas for all intended uses set forth in a. through g. above shall be at the ratio of one (1) square foot of ground (parking) area for each three (3) square feet of floor (building) area.

2. Design of Off-Street Parking and Loading Spaces:

- a. All required parking spaces shall be at least ten (10) feet from street lines and shall be properly maintained in such a manner as to permit them to be used at all times. All required parking spaces shall be located on the same lot as the use with which such spaces are connected or, in the case of unenclosed spaces, within two hundred (200) feet of the lot, and within the same district. Two (2) or more adjacent businesses may jointly provide the required spaces on one (1) or more of their lots. The number of spaces in any such joint facilities shall at least equal the total number required under the provisions of this section for the individual uses.
- b. All open off-street parking and loading areas, permitted and/or required, except for single-family dwellings, which are located within or adjacent to a Residential District or Recreation-Conservation District (whether on the side or rear) shall be screened from all adjacent lots in said districts by a strip six (6) feet wide, densely planted and maintained with shrubs or trees, which are at least three (3) feet high at the time of planting and of a type which shall form year-round dense screen at least five (5) feet high within three (3) years.
- c. Parking spaces shall be specified areas, not less than nine by twenty (9 x 20) feet, except that the permit granting authority may allow areas not less than eight by sixteen (8 x 16) feet to be designated for compact vehicles.
- d. Required off-street parking and loading areas shall not hereafter be reduced, nor shall one be counted as or substituted for the other.
- e. All required off-street parking and loading spaces and rear yards shall have adequate vehicular access to the street, which, along with the areas themselves, must be approved on a site plan in cases of uses in a Business, Compact Business, Commercial or Industrial District, in accordance with Section VII-F. Except in the case of parking spaces provided for single-family detached dwellings, accesses to the street shall not be located closer than two hundred (200) feet apart and shall be provided with separate entrance and exit lanes.
- f. Except in the case of parking spaces provided for dwellings, off-street parking and loading areas shall be paved adequately for the intended use. Alternate rows of parking spaces shall be separated by a landscaped strip not less than five (5) feet wide unless located in the rear yard.

- g. Except in the case of parking spaces provided for dwellings, off-street parking and loading areas used after sundown shall be illuminated, while in use, with illumination so arranged as not to shine on abutting properties, or on streets, in such a manner as to create a nuisance or hazard.

E. Signs:

1. Definitions

- a. Sign: As defined in Section II, paragraph O.
- b. Area of Sign:
 - (1) The area of a sign shall include all lettering and accompanying designs and symbols, together with the background on which they are displayed.
 - (2) The area of a sign consisting of individual letters or symbols shall be the area of the smallest rectangle or triangle which encompasses all of the letters and symbols.
 - (3) The area of a three-dimensional form sign shall be the area of the four vertical faces of a cube which encompasses the form.
- c. Temporary Sign: Any sign which is displayed for a continuous period of not more than twenty-one (21) days and not replaced by a sign of a similar intent within sixty (60) days.
- d. Permanent Sign: Any sign other than a temporary sign.
- e. On-Site Sign: A sign pertaining to products or activities located or offered at the same location as the sign.
- f. Erected: Attached, constructed, reconstructed, altered, enlarged or moved. Erected shall not mean repainted, cleaned, repaired or maintained. Altered includes changes in the structure or lettering or symbols of the sign, or replacement.

2. General Regulations

The following regulations shall apply to all signs in all districts:

- a. No sign shall be erected except as provided in this bylaw.
- b. No sign shall be erected to in any way create a traffic hazard or confuse traffic control.
- c. Only white lights shall be used for illumination of a sign. The illumination for any sign shall be shielded, directed and maintained at a sufficiently low intensity that it shall not affect the vision of vehicle operators moving on or near the premises nor cause glare or offensive lighting in the neighborhood. Signs shall not be illuminated between 9:00 p.m. and 5:00 a.m., except during business hours.

- d. Any sign, including pre-existing signs, not properly maintained or which applies to products or activities which are no longer offered shall be removed.
- e. Signs which are oscillating, internally illuminated, flashing or operating with moving parts are not permitted.
- f. Each permanent sign shall display its permit number at a location readily visible to the inspector.

3. Pre-existing Signs

Any sign legally erected prior to the adoption of this bylaw may continue to be maintained, provided, however, that no such sign shall be enlarged or altered except in conformance with a permit issued in accordance with the provisions of this bylaw.

4. On-Site - Permanent

Permanent signs are permitted subject to the General Regulations and the following subsections:

a. Residential and Recreation-Conservation Districts:

- (1) One (1) on-site sign is permitted not exceeding three (3) square feet in area.
- (2) One (1) on-site sign pertaining to the rent, lease or sale of land or building(s) not exceeding three (3) square feet in area. All such signs shall be removed within seven (7) days of rental, lease or sale of land or building.
- (3) Seasonal Agriculture: one sign for uses permitted in Section VI, paragraphs A-1-b, c and e and B-1-a, each not exceeding four (4) square feet in area, may be erected.

b. Business, Compact Business, Commercial, Industrial and Refuse Disposal Districts:

- (1) For each establishment, one (1) on-site sign attached to the facade of the building not exceeding the lesser of one square foot for each one lineal foot of business, commercial or industrial building frontage or eighty (80) square feet in area.
- (2) Window signs in total may be the larger of 30% of the window or three (3) square feet.
- (3) One (1) primary free standing sign visible from the main public way not exceeding twenty (20) square feet in area.
 - i. In the case of multiple businesses in the same building or sharing the same access and/or parking facilities, only one sign is permitted per principal access.

ii. If the business is on a corner lot and the primary sign is not visible from the intersecting road, a secondary sign not larger than 50% of the primary sign is permitted.

- (4) One (1) on-site sign pertaining to the rent, lease or sale of land or building(s) not exceeding six (6) square feet in area. All such signs shall be removed within seven (7) days of rental, lease or sale of land or building.

5. Off-Site Signs

The following off-site signs are permitted subject to any required approvals of the State Department of Public Works or the Outdoor Advertising Board.

- a. Seasonal Agriculture: Two (2) signs for uses permitted in Section VI, paragraphs A-1-b, c and e and B-1-a, each not exceeding six (6) square feet in area, may be erected outside of the right of way. Seasonal agriculture signs may be erected one (1) week prior to the beginning of sales and must be removed one (1) week after sales are completed.
- b. Directional: A free-standing pole may be erected at intersections of town roads, located not to obstruct vision on the right of way and affixed with directional signs, with the approval of the Selectmen.
- (1) The directional signs shall be no larger than 6" x 24" and have a dark green background. Lettering shall be yellow and no more than 4" in height.
 - (2) A directional sign may bear only the name of a business, logo-type, distance and a directional arrow.
 - (3) Directional signs shall not be illuminated.
 - (4) The maximum number of signs per business shall not exceed three (3) located at different intersections.
 - (5) Maximum of two (2) direction sign poles per intersection.
 - (6) The maximum height of a direction sign pole is eight (8) feet above the road surface.
 - (7) Direction sign poles and locations will be subject to the approval of the Building Inspector and Superintendent of Streets.
 - (8) A maximum of eight (8) businesses may share a pole for direction signs.
 - (9) The cost of the signs, pole and maintenance shall be the sole responsibility of the sign owners.

6. Temporary Signs

Temporary signs up to three (3) square feet in area may be placed on private or public land. Each sign shall include the name, address and telephone number of the person responsible for the sign and date of posting. Any sign without this information is in violation of this bylaw and shall be removed at the owner's expense. Failure of the owner to remove any sign within twenty-one (21) days of posting is a violation of this bylaw.

Each event shall be allowed up to ten (10) temporary signs. Similar events which occur at the same location and on consecutive days shall be deemed to be one event.

7. Exceptions

a. In all districts the following exceptions shall apply, but these signs should reasonably comply with town bylaws where possible. No permit is required unless otherwise specified.

- (1) Federal, state and Town of Stow signs are exempt from the provisions of this section.
- (2) Religious and charitable organizations are permitted up to three (3) signs with a combined area not exceeding forty (40) square feet, but require a permit.
- (3) Historical markers or tablets, if approved by the Stow Historical Commission, are exempt.
- (4) Window signs stating hours of operation, affiliations, credit cards and emergency information are exempt, provided each such sign does not exceed one-half (1/2) square foot.
- (5) Signs regulating the use of or access to land are exempt if less than one (1) square foot in area.
- (6) Signs endorsing political campaigns or issues, provided such signs are removed within seven (7) days after the election to which they pertain.
- (7) Signs showing the name only of the resident for identification shall not require a permit.

8. Administration and Enforcement

a. Administration: There is hereby created a Sign Officer who shall be appointed annually by the Board of Selectmen.

b. Permits: No permanent sign shall be erected unless a permit has been issued by the Sign Officer. Temporary signs do not require a permit. The permit fee shall be \$2.00 per square foot payable to the Town of Stow when the permit application is submitted. There shall be no charge for seasonal agricultural signs.

c. Application: Permit applications shall be submitted to the Town Clerk and shall include at least

- (1) the location, by street number, of the proposed sign;
- (2) the name and address of the sign owner and of the owner of the premises where the sign is to be located;
- (3) a scale drawing showing the proposed construction, method of installation or support, colors, dimensions, location of the sign on the site and method of illumination;
- (4) all existing signs maintained on the premises;
- (5) such other pertinent information as the Building Inspector and/or Sign Officer may require to ensure compliance with this bylaw and any other applicable law; and
- (6) the signature of the owner of the sign and the owner of the premises where the sign is to be located.

The Sign Officer shall have the authority to reject any sign permit application which is not complete when submitted.

d. Approval: The Sign Officer shall approve or disapprove any application for a sign permit within thirty (30) days of receipt of the application by the Town Clerk. If the Sign Officer should fail to approve or disapprove an application for a sign permit within such thirty (30) day period, the application shall be deemed to be approved. The Sign Officer shall issue a permit number with each approval.

e. Enforcement:

- (1) The Building Inspector and/or the Sign Officer shall, at reasonable times, have the power to enter upon the premises on which any sign is erected or maintained in order to inspect said sign.
- (2) If the Building Inspector determines that a sign is in violation of this bylaw, he shall give written notice to the owner of such sign, and to the owner of the premises on which such sign is located, to remove or modify the sign within thirty (30) days to be in accordance with the provisions of this bylaw. Failure to comply with the notice or appeal the decision constitutes a violation of this bylaw. Immediate removal may be ordered for any sign requiring a permit which is erected without first obtaining such permit, or which is a safety hazard.
- (3) All signs without a permit number displayed will be removed at the owner's expense.

f. Right of Appeal: Any person who is dissatisfied with the decision of the Building Inspector or Sign Officer may appeal to the Board of Appeals within thirty (30) days from the date of such refusal,

order or decision. If the action of the Inspector is modified or annulled, the Building Inspector shall issue a permit or order in accordance with the decision of the Board.

g. Variations in Specific Cases: The Board of Appeals may vary the provisions of this bylaw in specific cases which appear to them not to have been contemplated by this bylaw, and in cases wherein its enforcement would involve practical difficulties or unnecessary hardship, if, in each instance, desirable relief may be granted without substantially derogating from the intent of this bylaw but not otherwise. Any decision to vary the provisions of this bylaw shall be by at least a 4/5 vote of the Board and shall specify any variance allowed and the reasons therefor.

h. Penalties: Any sign owner or property owner who violates this bylaw shall be subject to a fine of not more than \$50.00 per day. Each day that a violation continues shall constitute a separate offense.

F. Special Permits:

A special permit is a permit to use property for the purpose specified and shall not reverse, alter or vary any provision of this bylaw applicable thereto. The uses or developments for which special permits are provided may be appropriate in a particular district but have potential adverse effects which make control and oversight necessary. A special permit allows on a specific lot a use or structure which is not allowed as of right on other land in the same zoning district.

The burden rests on the applicant to support the application, submitted in accordance with the adopted rules of the Special Permit Granting Authority (SPGA), by a site plan and specific, detailed, clear and convincing evidence on each matter relevant to the application under the bylaw. The application shall show satisfactorily that the use will comply with the Zoning Bylaws, and in particular with the General subsection (Section VI-F), as well as be subject to and conditioned on meeting other relevant bylaws of the Town. A permit shall be denied if, within the time limit conditions specified by Chapter 40A and described by this bylaw (Section F-1), all studies relating to the findings which the SPGA must make are not completed within a sufficient time period to enable the SPGA to incorporate into the conditions of the special permit sufficient mitigating actions extending from those studies. If a special permit is to be granted, the SPGA shall impose, as part of such permit, conditions, safeguards and limitations of time and use, in addition to any specifically provided in the bylaw, as may be appropriate protection for the present and for the future, for the neighborhood, the community and the natural environment, including surface and ground water quality, air quality, flora and fauna, and wetland resources.

1. The SPGA shall decide on the application or issue any permit only after a public hearing, held within 65 days after receipt of the application by the SPGA. The SPGA shall render a decision within 90 days following the close of the public hearing, unless the applicant and the SPGA have agreed in writing to an extension. A special permit may be granted only after a finding has been made and documented that the criteria described below have been examined and are adequately addressed within the order of conditions associated with the special permit.

- a. The development will result in
- (1) no danger of pollution or contamination of the ground water, a ground water recharge area, a well, pond, stream, water-course or inland wetland;
 - (2) no significant effect on the "level of service" (LOS) for any of the Town's roads or intersections of these roads, and for roads or intersections within three miles of the site. Proof of significant effect is a lower LOS as defined by the Highway Capacity Manual, 1985 Edition, Transportation Research Board, or total traffic levels 110% or greater of those existing prior to the project;
 - (3) no significant effect on the level of service for any service provided by the Town, including fire, police and ambulance, such that on the per capita basis of existing services there would be a need for additional services specifically due to the development;
 - (4) no redirection of existing surface water runoff such that there would be material impact on abutting parcels or downstream properties unless an appropriate easement is obtained to an existing watercourse;
 - (5) no transport by air or water of erodible material beyond the boundary line of the lot. See also Use Regulations - General (Section VI-F);
 - (6) adequate provision for pedestrian traffic.
- b. The proposed development will be related harmoniously to the terrain and to the use, scale and proportions of existing and proposed buildings in the vicinity that have functional or visual relationship to the proposed buildings.
- c. No construction activity shall take place on the site and no special permit shall be issued until all relevant documents including easements are executed and filed with and approved by the SPGA and subsequently recorded.
- d. The permitted use sought in the special permit shall be in harmony with the general purpose and intent of the bylaw, as well as any specific restriction required in the bylaw.
- e. The requirements of site standards for special permits shall have been met (see subsection 3 below).
- f. From a detailed statement, where required, of the expected community and environmental impacts of the proposed development, sufficient mitigating measures which will be implemented as part of the special permit for any adverse findings noted in the statement (see subsection 4 below).

SECTION VII-F-1-g

- g. The requirements of Use Regulations - General (Section VI-F) shall have been met.
2. The SPGA shall impose conditions, including periodic review if necessary, to ensure continuously that
- a. all solid waste generated by any use on the site shall be legally and adequately disposed of;
 - b. a program of maintenance of screening and green space will continue for the life of the permitted project;
 - c. a program of snow storage or removal will continue for the life of the permitted project;
 - d. ground water will be protected through all necessary measures such as those to limit the use of salt to control ice and snow and those to remove oil and grease from surface runoff;
 - e. all sewage, refuse and any other potential pollutant from uses on the site shall have adequate means or methods of disposal.
3. Site Standards for Non-Residential Use Requiring Special Permit

The following standards shall apply to all uses which require special permits and which are not for residential uses:

- a. Each lot shall have as green space at least 50% of the first 1.50 acres of lot area and at least 75% of the lot area in excess of 1.50 acres.
 - b. The Table of Requirements To Be Satisfied Entirely Within Each District (Section VII-B) shall apply to all structures on any lot except driveways and footpaths which provide necessary access to the buildable area.
4. Assessment of Community and Environmental Impacts for Non-Residential Use Requiring Special Permit
- a. A detailed statement describing community and environmental impacts, as well as measures proposed for sufficiently mitigating the impacts, shall be completed if the proposed project subject to the special permit falls into one or more of the following categories:
 - (1) Construction of 80,000 or more square feet of gross floor area in one or more buildings.
 - (2) Construction of one or more structures (as defined in Section II, Definitions) having a footprint of 160,000 or more square feet.
 - (3) Any project providing 100 or more new parking spaces.
 - (4) Any project generating 350 or more new trips per day.

b. The statement shall be prepared by a qualified professional, such as a landscape architect, architect, engineer or land planner, and shall specifically address the following as well as any other relevant items:

- (1) Impact on physical environment.
- (2) Impact on adjacent neighborhoods.
- (3) Impact on surface and subsurface waters, runoff, soils and vegetation.
- (4) Impact, including costs, on town services such as schools, traffic, police, fire, ambulance, population growth, road maintenance, taxes and health.
- (5) Impact on the quality of life of residents of Stow.
- (6) Design consideration and design process which resulted in proposed building types, size, style and interrelationships.

The impact on these items shall be quantified wherever possible in terms of irreversibility, magnitude and economics.

5. A Level 1 Special Permit is required for:

- a. Construction or enlargement of any business, commercial or industrial building or structure not otherwise specifically permitted as a matter of right.
- b. Construction, enlargement or alteration of any building containing more than one dwelling unit not otherwise specifically permitted as a matter of right.
- c. Any site alteration for the above structures/uses.
- d. Any increase in intensity of a site or use for which a special permit is required. Increase in intensity shall include, but not be limited to, increases in number of employees, ground area, parking size, seating capacity and the like.
- e. Uses which specifically require a Level 1 special permit.
- f. Any use listed in a, b or c above which is expanded in ground area.

When both a Level 1 and a Level 2 special permit are required, both shall be considered by the Level 2 permit granting authority, and no separate Level 1 permit shall be issued.

For the purpose of this section, the Level 1 special permit granting authority shall be the Planning Board, unless otherwise provided in this bylaw.

6. Definitions

For the purpose of this section, the following definitions shall apply:

"enlargement" shall mean any increase in building flood area.

"expanded in ground area" shall mean any increase in ground area devoted to such use.

"alteration" shall include, but not necessarily be limited to, any change in parking spaces, driveways and driveway openings, fire lanes, service areas, facilities for sewage, refuse and waste disposal, structures, signs, outside lighting, buffers and screening including walls and fences, and topography.

7. Level 2 Special Permit

- a. For the purposes of this section, the Level 2 special permit granting authority shall be the Board of Appeals, unless otherwise provided in this bylaw.

No Level 2 special permit shall be granted unless the special permit granting authority finds that

- (1) the special permit shall be in harmony with the general purposes and intent of the bylaw; and
 - (2) that all requirements or conditions contained in this bylaw for the granting of such a permit have been satisfied.
- b. The Level 2 special permit granting authority may attach such conditions or safeguards or limitations to a special permit as it finds to be reasonable, including but not limited to
- (1) set-back requirements greater than the minimum required by this bylaw;
 - (2) requirements as to installation of screening, fencing, landscaping or other means of protecting adjacent property;
 - (3) modification of the exterior features or appearance of any structure;
 - (4) limitation as to the size, number of occupants or method and time of operation of any proposed use;
 - (5) regulation of number, design and location of access drives and other traffic features;
 - (6) requirement for off-street parking and other special features;
 - (7) installation of mechanical or other devices to limit noise, light, odor or other objectionable aspects of a use;
 - (8) requirement for surety bonds or other security for the performance of any conditions attached to the special permit.

- c. Any special permit granted under this bylaw shall lapse within a period of time, to be specified by the special permit granting authority, not to exceed two (2) years from the date of issue, unless, in the case of a special permit for a building or structure, construction has commenced or, in the case of any other use of or activity upon land, such use or activity has commenced.
- d. The public hearing on any application for a special permit shall be held within sixty-five (65) days after the filing of the application therefor with the special permit granting authority and with other officers, boards or commissions, as required by law and this bylaw.
- e. Failure of the Level 2 special permit granting authority to act within ninety (90) days following the public hearing shall be deemed to be the grant of the special permit applied for, and the applicant shall be entitled to whatever documents are necessary to evidence such permit.

G. Earth Removal:

Except for earth removal operations in existence at the time notice was given of the public hearing on the amendment of the zoning bylaw by adoption of this section, no soil, loam, sand or gravel may be removed from any land in Stow, except for earth removal operations in existence under a permit duly issued under the Earth Removal Bylaw (Police Regulations, Article 6, Section 22) and except as provided under Section j. of said bylaw.

H. Trailers and Mobile Homes:

No trailer or mobile home shall be moved onto any lot within the Town for use as a dwelling.

I. -----

J. Common Drive:

Common drives are not permitted except as provided in this section. In the Residential District, construction of a private drive to be shared by more than one lot, but not more than three (3) lots, is permitted subject to the following specifications:

1. The common drive surface shall be sixteen (16) feet wide. It shall have an 11-inch gravel base and a 4-inch compacted dense graded surface.
2. The maximum length of the common drive shall be five hundred (500) feet and shall be measured from the near side line of the street along the center line of the common drive to the throat of the furthest junction.
3. The common drive shall lie entirely within the lots being served.
4. Use of the common drive by vehicle traffic shall be limited to ingress and egress and does not include the parking of vehicles on the common drive, except that occasional overflow parking of guests' vehicles shall

be permitted, provided that such vehicles are parked in a manner that does not impede traffic flow and that such parking does not extend overnight.

5. The owners of the lots shall bear and have joint and several responsibilities and obligations for the repair, maintenance, reconstruction and snowplowing of the common drive, so as to provide continuous year-round access for vehicle traffic for the convenience of the owners of the lots, and to provide continuous year-round access for all emergency, fire, rescue, police, moving, construction and maintenance vehicles. No building permit shall be issued until a restriction or covenant to run with the land has been approved by the Planning Board in a form satisfactory to assure compliance with this provision and a copy of the document received by the Building Inspector.

K. Fences:

1. In residential districts, no fence or wall shall exceed eight feet in height.
2. In residential districts, fences shall be set back a minimum of one foot from the property line. In instances when the fence is primarily intended to enclose animals, it shall be set back a minimum of three feet from the property line.
3. Swimming Pools Fencing:
 - a. Every outdoor swimming pool having a capacity of 4,000 gallons or more, whether or not filled with water, shall be completely surrounded at all times by a fence or wall not less than 48" in height above grade, which may be the pool wall itself.
 - b. Every such fence or wall shall be so constructed as to not have openings, holes or gaps larger than 4" in any dimension except for doors, gates and picket fences; in the latter case, however, the gaps between the pickets shall not exceed 4".
 - c. All gates or doors opening through such enclosures shall be of not less than 48" in height and shall be equipped with a self-closing and self-latching device located at least 48" above the underlying ground and inaccessible from the outside to small children. Every such gate or door shall be kept latched at all times when the swimming pool is not in use, and any ladders shall be removed.

SECTION VIII

Administration

The provisions of the bylaw and any amendments thereto shall be administered and enforced by the Building Inspector.

A. Building Permits:

Building permits are required in accord with the State Building Code.

B. Certificate of Occupancy:

Certificates of occupancy are required in accord with the State Building Code.

C. Violations and Enforcement:

Enforcement shall be in accord with provisions of the State Building Code.

D. Penalty for Violation:

The penalty for violation of this bylaw shall be a fine of one hundred dollars (\$100) for the first offense, two hundred dollars (\$200) for the second offense, three hundred dollars (\$300) for the third offense and three hundred dollars (\$300) for each succeeding offense. Each day that a violation continues shall constitute a separate offense.

SECTION IX

Board of Appeals

The Board of Appeals under this bylaw shall be the existing Board of Appeals established in accordance with Section 12 of Chapter 40A and Article 3, Section 12 of the General Bylaws of the Town. The Board of Appeals shall constitute the permit granting authority and the special permit granting authority, except as otherwise provided in the Zoning Bylaw, and shall exercise the powers contained in Chapter 40A, Section 14 of the General Laws, as amended.

SECTION X

Amendment

This bylaw may from time to time be changed by amendment, addition or repeal by a town meeting in the manner provided by Section 5 of Chapter 40A of the General Laws.

SECTION XI

Religious, Educational, Agricultural or Municipal Uses

Nothing in this bylaw shall be construed to limit or prohibit the use of land in any district, or any building or structure, for any church or religious purpose, for any non-profit educational purpose which is religious, sectarian, denominational or public, for agricultural use except piggeries or raising animals for fur, or for any municipal purpose with the exception of a refuse disposal area. Such uses shall nevertheless conform to the dimensional, parking and building coverage requirements of this bylaw.

SECTION XII

Validity

Where this bylaw imposes a greater restriction upon the use, height and the area of structures or the use of premises than is imposed by other bylaws, the provisions of this bylaw shall control. The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

SECTION XIII

Procedure

All procedure, time periods, hearings, actions taken and the adoption of rules and regulations shall be in accordance with Chapter 40A of the General Laws, as amended by Chapter 808 of the Acts of 1975, and any subsequent amendments thereto.

SECTION XIV

Phasing of Growth

Over the past decade, the Town of Stow has been subject to extensive growth that has strained its ability to govern. With this point in mind, the purpose of this Section is to ensure that future growth occurs in an orderly and planned manner that allows the Town time for preparation to maintain high quality municipal services for an expanded residential population while allowing a reasonable amount of additional residential growth during those preparations. The citizens of Stow insist on, take pride in, and enjoy a reputation for such high quality and reliable municipal services. Several key municipal services, including human services and schools, are currently or may soon be under considerable strain. This Section will relate the timing of residential development to the Town's ability to provide services.

In addition, this Section also proposes to encourage certain types of residential growth which reflect the values of the Town as previously expressed in its policies and appropriations.

A. Regulations:

Beginning on the effective date of this Section, and continuing for ten calendar years, no building permit for construction of projects involving four or more residential units shall be issued unless in accordance with the regulations of this Section.

Dwelling units shall be considered as part of a single development if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of adoption of this Section.

All newly authorized residential units for which individual or several building permits have been issued pursuant to 780 CMR 113.1 shall count toward the growth rate limit of 35 dwelling units defined in Section XIV.B.1.

B. Planned Growth Rate:

1. This Section shall take effect beginning on the date of adoption by Town Meeting (December 12, 1988). Beginning on this date of adoption, the applicable permit granting authority (Planning Board, Zoning Board of Appeals or Building Inspector) shall not approve any residential development which would result in authorizations for more than 35 dwelling units over a 730 consecutive day (two-year) period unless (a) specifically exempted (the project has less than four residential units); or (b) it is duly authorized in a development schedule.
2. Once a development schedule is approved, building permits shall be issued in conformity with that schedule. Once authorized by the development schedule, said building permits shall be issued even if the 35-unit limit has been reached.

SECTION XIV-C

C. Development Schedule:

Building permits for new dwelling units shall be authorized only in accordance with the following schedule:

<u># of New Units in Development</u>	<u>Dwelling Units/Year*</u>
1 - 3	100%
4 - 10	up to 40%
11 - 20	up to 25%
21 - 40	up to 20%
41 +	up to 15%

*Percent of units in the development for which building permits may be authorized each year. In instances where the calculated numbers are less than whole numbers, they will be rounded down to the nearest whole number.

D. Modification to Schedule:

The following modifications to the development schedule found in Section XIV.C. shall be allowed by the Planning Board (for Definitive Subdivision, ANR, and Level 1 special permits) or Zoning Board of Appeals (for Level 2 special permits) as part of the approval of any development. Points assigned in each category are to be cumulatively totaled to determine the modification to the schedule based on the Modification to Schedule Table found in Section XIV.D.7.

1. Affordable Housing:

- a. Any development which includes 25 to 100% of its units for low and/or moderate income people and which is subsidized by federal, state or local programs, or proposed by the Stow Housing Authority, or by a non-profit or limited dividend partnership, or any development which includes non-subsidized housing units priced to be affordable to people whose income is equal to or less than 120% of the median income for Stow and which provides that the mix of affordable and market rate housing built in any one year is equivalent to the overall mix for the entire development, and which further provides that resale restrictions are established by the developer which ensure that the affordable units remain affordable for a period of thirty years, shall be exempt from the Planned Growth Rate in Section XIV.C. and shall be allowed in accordance with the following schedule:

<u>Number of New Units</u>	<u>Dwelling Units/Year</u>
1 - 50 total units	100%
51 - 80 total units	up to 50%
80 + total units	up to 33%

	<u>Points Assigned</u>
b. Any development that meets the criteria found in Section XIV.D.1., but which includes 10% to 24% of its units for low and moderate income people.	20 pts.
c. Any development that includes no affordable units that meet the criteria in Section XIV.D.1.	-10 pts.
2. Open Land/Farmland:	
a. Provision of open land/parkland, as part of any development. For the purposes of this provision "usable land" shall be defined as in Section VII.B.5.b.(4) and "open land" shall be defined as in Section VII.B.5.d.	
(1) Open land consisting of 4,000 to 4,999 square feet of usable land per dwelling unit which is protected from future development through deed restrictions and/or protective covenant, and including provisions for renewal.	10 pts.
(2) Open land consisting of 5,000 to 5,999 square feet of usable land per dwelling unit which is protected from future development through deed restrictions and/or protective covenant, and including provisions for renewal.	15 pts.
(3) Open land consisting of at least 6,000 square feet or more usable land area per dwelling unit which is protected from future development through deed restrictions and/or protective covenant, and including provisions for renewal.	20 pts.
(4) Improved open land that meets the defined recreation needs of the Town of Stow as defined by Open Space Plan and deeded to the Town of Stow. (Add 5 points to the applicable category above.)	
(5) No usable open land.	-10 pts.
b. Protection and retention of farmland according to the following impacts on working farms:	
(1) Development on agricultural land, defined as land classified prime, unique or of state or local importance by the USDA, SCS or land characterized by active agricultural use as defined by Chapter 61A of the Mass. General Laws.	-30 pts.

- (2) Provision of a permanent 100-foot buffer zone as a deed restriction, including a fence and screening vegetation from the property boundary of a working farm. 10 pts.

3. Aquifer Protection:

- a. Development in the Aquifer Protection Overlay District
 - (1) Average lot size less than two acres. -30 pts.
 - (2) Average lot size two acres or more. -15 pts.

4. Open Space Residential Development:

Any proposal approved under Section VII.B.5 will be subject to the following schedule provided that the open space is deeded to the Town:

<u>Number of Units in Development</u>	<u>Dwelling Units/Year</u>
1 - 10	100%
10 - 20	80%
20 - 30	50%
30 +	30%

5. Infrastructure:

- a. Any development which commits to completing all roads and utilities prior to issuance of building permits during the first year of the total project. 30 pts.
- b. Any development that commits to completing all roads or utilities (one or the other) prior to issuance of building permits. 15 pts.
- c. Any development which commits to completing all roads and utilities during years one to three of the project. 5 pts.
- d. Any development which commits to completing all roads and utilities after the third year of the project. -15 pts.

6. Other:

The Planning Board (Definitive Subdivision, Approval Not Required and Level 1 special permits) and Zoning Board of Appeals (Level 2 special permits) may grant up to a total maximum of 40 points after making the relevant findings based on submitted documentation and giving due consideration to the following:

- a. Ability of the Town to adequately serve the proposed development with streets, utilities, drainage, educational and protective services.

- b. The amelioration of development impacts, such as through lower densities, preservation of natural or agricultural resources, preservation of scenic views, or other approaches approved by the Planning Board.
 - c. Other arrangements which will provide for or reduce the cost of public services and facilities such as child care, health care, elder services, disabled services, recreation, transportation or water conservation.
 - d. Provision of housing needs for diverse population groups.
 - e. Commitments to improve town facilities.
 - f. Site design which responds to, incorporates and protects natural features such as vegetation, topography, water courses and views, or which is designed to respond to the character of the neighborhood.
 - g. Housing and site features that emphasize safety aspects such as sidewalks, school bus stops or fire protection systems.
7. Development Schedule Modification Table:

Points accumulated under Section XIV.D.1. through XIV.D.6. shall be totaled and the total shall modify the development schedule in Section XIV.C. according to the following table.

DEVELOPMENT SCHEDULE	POINT TOTAL									
	-15 to -30	-1 to -29	0 to -14	1 to 0	6 to 5	13 to 12	21 to 20	29 to 28	36 to 36	37+ to 37+
1 - 3	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
4 - 10	28%	32%	36%	40%	55%	60%	65%	70%	75%	83%
11 - 20	17%	19%	22%	25%	38%	43%	48%	53%	58%	66%
21 - 40	14%	16%	18%	20%	30%	35%	40%	45%	50%	58%
41 +	9%	10%	13%	15%	25%	30%	35%	40%	45%	53%

E. Requirements:

- 1. All Definitive Subdivision, Approval Not Required and Special Permit applications shall include a proposed development schedule by the applicant.
- 2. Development schedules as proposed or modified shall be approved by the appropriate body (Planning Board or Zoning Board of Appeals), shall be

SECTION XIV-E-2

recorded at the Middlesex County Registry of Deeds, and shall have no effect until recorded. The schedule shall specify the earliest date that each unit/lot may become eligible for the issuance of a building permit.

F. Zoning Change Protection:

The protection against zoning changes as granted by Section 6 of Chapter 40A, Mass. General Laws, shall, in the case of a development whose completion has been constrained by this bylaw, be extended to the minimum time for completion allowed under this bylaw.

A true copy. Attest: Ann L. Allison
Town Clerk of Stow

SUMMARY OF ZONING AMENDMENTS

MARCH 3 & 4, 1969

(Approved by Attorney General May 22, 1969)

Included in the Industrial District a parcel of land on the westerly side of Hudson Road, adjoining and southerly of the existing Industrial District and beginning at a point on the westerly side of Hudson Road at the northerly side of Athens Street. And further, by redefining the southerly line of the existing Industrial District as a segment of a straight line from the intersection of Edson Street and Hudson Road to the town bound at Maple Street.

Included in the Recreation-Conservation District the land on both sides of Assabet Brook, from the point where Potash Brook joins Assabet Brook downstream to the point where Assabet Brook joins the existing flood plain zone which extends northerly of the Assabet River, along Assabet Brook, and which lies within two hundred (200) feet of the center line of Assabet Brook.

Included in the Industrial District a strip of land along the westerly side of Boxboro Road, by the Boxborough town line and by the easterly line of the existing Industrial District.

Voted to accept the provisions of General Laws Chapter 40A, Section 8 concerning reconsideration of changes in the zoning bylaw after unfavorable action.

NOVEMBER 24, 1969

(Approved by Attorney General January 19, 1970)

Minor amendments

MARCH 2 & 3, 1970

(Approved by Attorney General June 16, 1970)

Section VII-B: inserted subsection 5, cluster zoning.

MARCH 3, 1971

(Approved by Attorney General April 12, 1971)

Changed from Residential to Commercial a parcel of land between Great Road and Delaney Street next to the Bolton town line.

NOVEMBER 1, 1971

(Approved by Attorney General February 25, 1972)

Section XI: amended to provide a municipal exemption for certain purposes.

OCTOBER 5, 1972

(Approved by Attorney General November 7, 1972)

Amended in order to correct an inconsistency in the original zoning map as it relates to the Recreation-Conservation District along Elizabeth Brook between Great Road and the dam at the easterly end of Wheeler's Pond by changing the legend on the map in that section which reads "220-foot contour" to read "210-foot contour".

MARCH 5, 6, 7 & 8, 1973

(Approved by Attorney General August 27, 1973)

Section III-A "Establishment of Districts": added "6. Wetlands District".
 Section III-C "Location of Boundaries of Districts": added paragraph 7.
 Section VI "Use Regulations": added subsection "G. Wetlands District".
 Section VII-B-4: amended
 Zoning map amended to add "Wetlands District".

OCTOBER 15, 1973

(Approved by Attorney General November 13, 1973)

Section VII-B "Area, Frontage, Yard, & Floor Area Requirements" and the accompanying table for the Residential District:
 Column entitled "Minimum Lot Area in Square Feet", changed the number "40,000" to read "65,340".
 Column entitled "Minimum Contiguous Lot Frontage in Feet", changed the number "150" to read "200".
 Section VII-B-5-b-(4), second sentence: changed "40,000 square feet" to read "65,340 square feet".
 Section VII-B-6-c: added paragraph (3) to read:
 "Those lots within the cluster, but having frontage on existing roads, must meet the frontage and area requirements of the District without regard to the provisions of this section."

MAY 6, 7, 8 & 20, 1974

(Approved by Attorney General October 7, 1974)

Section VII-B-5-b-(4): added the words "in a wetlands district or" to the third sentence of the section.
 Section VII-B-5-b-(8): added the words "if it is not in a Wetlands District" to the second sentence of the section.

MAY 5, 6, 7 & 8, 1975

(Approved by Attorney General September 9, 1975)

Included within the Wetlands District all land subject to periodic flooding by adopting the following changes, and amended the zoning map of the Town accordingly:

1. Section III-A "Establishment of Districts": changed item 6 to read "6. Flood Plain/Wetlands District".
2. Section III-C "Location of Boundaries of Districts": added a new paragraph 8.
3. Section VI "Use Regulations" paragraph G: struck out the words "Wetlands District" wherever they appear and substituted therefor the words "Flood Plain/Wetlands District".
4. Section VI-G-1 "Uses Permitted ": added a new paragraph g.
 - "4. In no case shall a building or structure or sewage disposal area hereafter be located, constructed or substantially improved in a Flood Plain/Wetlands District or within thirty (30) feet of the bank or boundary of a stream, river, watercourse, flood plain or wetland except as provided in Section V-D and Section VI-G-1-g. "Substantial improvement", for the purposes of this section, shall mean any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the actual cash value of the structure either before the improvement is started, or in the case where the structure has been damaged and is being restored, before the damage occurred."
6. Section V-D "New Construction and New Uses": deleted the language in its entirety and inserting a new Section V-D to read
 - "D. No building except piers, wharfs or other structures to service boats shall be erected below the flood contour lines as shown on the maps and plans set forth in Section III-C-8 of this bylaw, as indicated on and incorporated in by reference on the zoning map accompanying this bylaw, except upon a special permit granted by the Board of Appeals as hereinafter provided for in Section VI-G-1-g."

NOVEMBER 10, 1975

(Approved by Attorney General February 23, 1976)

Section III-A "Establishment of Districts": added a new district "3a. Compact Business District".

Section VI "Use Regulations": added a new subsection H. "H. Compact Business District".

SUMMARY OF ZONING AMENDMENTS

Section VII-B "Area, Frontage, Yard, and Floor Area Requirements" table: added Compact Business District and Footnotes (7), (7A) and (8).

Rezoned from Residential to Compact Business two parcels of land on the easterly side of Gleasondale Road, beginning at a point approximately 334 feet from the easterly corner of Great Road and Gleasondale Road and extending southerly along the easterly side of Gleasondale Road to the southern boundary of the parcel containing the Post Office.

MAY 3, 4 & 5, 1976

(Approved by Attorney General August 10, 1976)

Section V: added a new paragraph F. to provide for a special permit for various lots of at least 40,000 square feet and 150 feet of frontage.

NOVEMBER 17, 1976

(Approved by Attorney General February 28, 1977)

Section III-A "Establishment of Districts": added a new district "7. Refuse Disposal District".

Section VI "Use Regulations": added a new subsection "I. Refuse Disposal District".

Section VII-F "Site Plan Approval": inserted after the words "Board of Appeals" wherever they occur the words "or the Board of Selectmen, whichever applies".

Section VII-F: deleted the last sentence and inserted in place thereof

"The public hearing on the special permit and site plan shall be held within sixty-five (65) days after the filing of an application for a special permit, and final action taken within ninety (90) days of the date of the public hearing, pursuant to the provisions of Chapter 40A of the Massachusetts General Laws, as amended by Chapter 808 of the Acts of 1975. Failure to act within the specified time shall constitute approval."

Section VII-B "Area, Frontage, Yard, and Floor Area Requirements" table: added Refuse Disposal District and Footnotes (9), (9A) and (10).

Section VII-E "Signs": struck out the first part of the first sentence and paragraph 2 and inserted in its place

"2. In Business, Commercial, Industrial and Refuse Disposal Districts additional signs are permitted as follows:"

Paragraph 2, subparagraph b: inserted after the words "industrial park" the words "or a refuse disposal facility".

SUMMARY OF ZONING AMENDMENTS

MAY 2, 3 & 4, 1977

(Approved by Attorney General August 18, 1977)

Rezoned from Residential to Refuse Disposal a portion of a parcel of land located in Stow and Hudson, containing approximately thirty-four (34) acres in Stow.

MAY 1 & 2, 1978

(Approved by Attorney General August 1, 1978)

Amended in order to bring zoning bylaws into conformity with the provisions of Chapter 808 of the Acts of 1975 and the new Chapter 40A of the General Laws.

1. Section 1 "Purposes": deleted and a new Section 1 inserted.
2. Section II-C: deleted the words "Building Code" and inserted the words "State Building Code".
3. Section II-M "Non-Conforming Uses, Structures and Lots": deleted and added a new Section M.
4. Section III-B: adopted the revised and updated zoning district map dated April 5, 1978; deleted the present date of the map and added the date of the new map in its place.
5. Section III-B: deleted all the language after the words "Town Clerk" and added language in place thereof.
6. Section III-C-3: added at the end of the sentence "in existence and as recorded at the time of the adoption of or amendment to the Zoning Map".
7. Section III-C-8: adopted updated flood plain maps by deleting the last sentence and adding in its place
 "Boundary lines of the flood plain elsewhere in the Town shall be the limits of the "Special Flood Hazard Areas" delineated on maps entitled "FIA Flood Hazard Boundary Maps", Nos. H01-H011 inclusive, Town of Stow, revised December 6, 1977 and on file with the Town Clerk."
8. Section IV: deleted title and introductory sentence and added
"Continuance of Existing, Non-Conforming Uses and Structures"
 A pre-existing, non-conforming use or structure may continue. However:"
9. Section IV-A: added a new first sentence
 "No pre-existing, non-conforming uses or structures may be extended or altered except upon application for a special permit and a finding by the Board of Appeals that such change is not substantially more detrimental to the neighborhood than the existing non-conforming use."

10. Section IV-C: deleted the words "one (1) year" and inserted the words "two (2) years".
11. Section IV-D: deleted the words "non-conforming building" and added in place thereof the words "non-conforming single or two family dwelling or agricultural structure".
12. Section VI-F-1-a: deleted the words "Building Code of the Town of Stow" and inserted in place thereof "State Building Code".
13. Section VI-F-1-h: added a new subsection h. Scientific Uses.
14. Section VII-B "Area, Frontage, Yard, and Floor Area Requirements" table: deleted the entries in the last column under "Minimum Floor Area" and the existing footnote (5) and added in place thereof a new footnote (5).
15. Section VII-B-3-e: deleted the second sentence and inserted in place thereof

"If in the opinion of the Board of Appeals the granting of a permit would not be in harmony with the general purpose and intent of the Zoning Bylaw, this shall be deemed good and sufficient reason for not granting a permit."
16. Section VII-B-3-f: deleted the end of the first sentence the words "forty-five (45) days within which to submit such report" and added in place thereof the words "thirty-five (35) days from the date of receipt within which to submit such report".
17. Section VIII-A, B and C: deleted in each section the words "Building Code of the Town of Stow" or "Stow Building Code" and inserted in place thereof the words "State Building Code".
18. Section IX: deleted reference to "Section 14 of Chapter 40A" and inserted in place thereof the words "Section 12 of Chapter 40A and Article 3, Section 12 of the General Bylaws of the Town" and added an additional sentence at the end to read

"The Board of Appeals shall constitute the permit granting authority and the special permit granting authority, except as otherwise provided in the Zoning Bylaw, and shall exercise the powers contained in Chapter 40A, Section 14 of the General Laws, as amended."
19. Section X: deleted the reference to Section 6 of Chapter 40A and inserted in its place the words "Section 5 of Chapter 40A".
20. Section XI: deleted title and added in its place the title "Religious, Educational, Agricultural or Municipal Uses"; added the word "non-profit" before the words "educational purpose" and the words "for agricultural use except piggeries or raising animals for fur" before the words "or for any municipal purpose"; added a sentence to the end of the Section - "Such uses shall nevertheless conform to the dimensional, parking and building coverage requirements of this bylaw."
21. Section XIII: added this Section entitled "Procedure".

OCTOBER 5, 1981

(Approved by Attorney General January 25, 1982)

Added Section XIV "Suspension of Airport or Landing Field Uses and Site Plan Approvals for Such Use" to provide a nine-month moratorium on those uses.

Section VI-B-1: deleted subparagraph g. in its entirety and inserted a new subparagraph g. "Professional office or home occupation, provided that:"

MAY 3 & 4, 1982

(Approved by Attorney General August 12, 1982)

Section III-C: deleted paragraph 7 in its entirety and substituted in place thereof a new paragraph 7 in order to define the wetlands map reference.

Section VII-D "Off-Street Parking and Loading Areas": deleted paragraph 2 in its entirety and substituted a new paragraph 2 "Design of Off-Street Parking and Loading Spaces".

JUNE 28, 1982

(Approved by Attorney General October 12, 1982)

Section VI-A-1: deleted paragraph f and substituted in place thereof a new paragraph f regarding display and sale or offering for sale farm produce.

Section VI-A-2: deleted from paragraph b the words "airports or landing fields".

Section VII-F: deleted paragraph F in its entirety and substituted in place thereof a new paragraph F to provide for Level 1 special permit (site plan approval).

Sections VII-G and VII-H: renumbered to Sections VII-E and VII-I respectively.

Section VII-G (new): inserted to provide for Level 2 special permit.

Site Plan Approval: deleted the words "site plan approval" wherever they appeared and substituted in place thereof the words "Level 1 special permit".

Special Permit: deleted the words "special permit" wherever they appeared and substituted in place thereof the words "Level 2 special permit".

Section XIV: deleted "Suspension of Airport or Landing Field Uses and Site Plan Approvals for Such Use".

MAY 2, 3, 4 & 25, 1983

(Approved by Attorney General August 26, 1983)

Section VII-B-4: deleted from the first sentence the words "thirty (30)" and adopted the words "one hundred (100)".

MAY 6, 7 & 8, 1985

(Approved by Attorney General August 5, 1985)

- Section VII-A-1: added second sentence regarding tower, chimney, etc., heights.
Section VII-A-3: deleted and substituted new sentence.

DECEMBER 9, 1985

(Approved by Attorney General February 24, 1986)

- Section VII-B: Signs - deleted existing paragraph E and adopted new paragraph E.

MAY 5, 6 & 7, 1986

(Approved by Attorney General July 25, 1986)

- Section II: Definitions - added the words "parking lots, driveways, roads and septic systems".

- Section III-C: added subparagraph 9.

- Section VI-A: Recreation-Conservation District - deleted subparagraph l.e. and relettered subparagraph l.f. and l.g. to l.e. and l.f.

- Section VII-D-1: Off-Street Parking and Loading Areas - deleted existing second paragraph of subparagraph f. and added new subparagraphs g. and h.

JANUARY 27 & 28, 1987

(Approved by Attorney General April 21, 1987)

- Section VI-C: Business District - added second sentence to subparagraph d. of paragraph 1.

- Section VII: added a new paragraph J. - Common Drives.

- Section VII-B: added paragraph 6 re "hammerhead lots".

- Section VII-B: added second sentence to footnote (1).

- Section VII-B: added footnote (11) to Footnote to Chart (superceded by vote of May 4, 5 and 6, 1987 as procedural defect was discovered).

- Zoning Map: included in Residential District all of the land contained in five existing Red Acre Road parcels.

MAY 4, 5 & 6, 1987

(Approved by Attorney General August 24, 1987)

- Section VI-F-1: added a new subparagraph i. - Drainage.

- Section VII-B: deleted paragraph 6 and added new paragraph 6 re hammerhead lots.
- Section VII-B: added footnote (11) to two columns of the Chart and added footnote (11) to Footnote to Chart.
- Section VII-F-1: Level 1 Special Permit - deleted first paragraph and adopted new first paragraph.

JANUARY 19, 1988

(Approved by Attorney General February 18, 1988)

- Section III-A: added Water Resource Protection District.
- Section III-C: added subparagraph 10.
- Section VI: added paragraph J. Water Resource Protection District.
- Section VII-B: added Water Resource Protection District to the Chart and added Footnote (12).
- Zoning Map: added legend re Water Resource Protection District.
- Rezoned from Industrial to Residential approximately 8.7045 acres off Gleasondale Road, identified as Parcel No. 3 on Stow Property Map Sheet U-8.

MAY 2 & 3, 1988

(Approved by Attorney General August 25, 1988)

- Section II: Definitions - added "Green Space".
- Section VI-A: Recreation-Conservation District - amended paragraph 1.d. and added paragraph 2.e.
- Section VI-B: Residential District - amended paragraph 1.d.; deleted and replaced paragraph 2.b.
- Section VI-C: Business District - deleted in its entirety and replaced.
- Section VI-D: Commercial District - deleted in its entirety and replaced.
- Section VI-E: Industrial District - deleted in its entirety and replaced.
- Section VII-B: Footnote to Chart - added Footnote (13).
- Section VII-F: Level 1 Special Permit - deleted in its entirety and replaced with "Special Permits".
- Section VII-G: Level 2 Special Permit - relabelled Section VII-F.7.
- Section VII-H: Earth Removal - relettered to Section VII-G.
- Section VII-I: Trailers and Mobile Homes - relettered to Section VII-H.

Zoning Map: rezone from Recreation-Conservation to Residential approximately 1.5 acres on the easterly side of Box Mill Road, identified as Parcel No. 2 on Stow Property Map Sheet R-12.

DECEMBER 12, 1988

(Approved by Attorney General March 16, 1989)

- Section I: Purposes - added "to achieve housing choices and a range of housing costs".
- Section II: Definitions - added "Accessory Apartment", "Bed and Breakfast Home or Establishment", "Fence", "Slope", "Wall".
- Section IV: Continuance of Existing, Non-Conforming Uses and Structures - added second paragraph to A.
- Section VI-B: Residential District - added new paragraph 1.1. "Bed and Breakfast Home"; added new paragraph 1.5. "Bed and Breakfast Establishment"; added new paragraph 2.3. "Nursing homes or elderly care facilities".
- Section VI-B: Residential District - added new paragraphs 3. and 4. "Accessory Residential Uses on One-Family Lots"; added new paragraph 5. "Duplex Residential Uses in the Residential District...".
- Section VI-C: Business District - added "bed and breakfast establishment or home" to paragraphs 1.a. and 3.a.
- Section VI-D: Commercial District - added "bed and breakfast establishment or home" to paragraph 3.a.; added new paragraph 3.1. "bed and breakfast establishment or home".
- Section VI-E: Industrial District - added new paragraph 3.h. "Conversion of existing residence to bed and breakfast establishment or home".
- Section VI-F: General - added new paragraph 1.j. "Erosion control".
- Section VII-B: Area, Frontage, Yard, and Floor Area Requirements" - replaced paragraph 1.
- Section VII-K: Added "Fences".
- Section VIII-D: Penalty for Violation - deleted and replaced.
- Section XIV: Added "Phasing of Growth".
- Zoning Map: rezone from Industrial to Residential approximately 32,800 square feet of Parcel 49 and approximately 1,300 square feet of Parcel 51 on Stow Property Map Sheet R-10.