

**Zoning Amendments
November 1998 Special Town Meeting**

**Adopted November, 1998
Forwarded to the Attorney General December 11, 1998**

ARTICLE 2. ZONING BYLAW AMENDMENT – DEFINITIONS

Voted unanimously to amend the Zoning Bylaw, Section 1.3 "Definitions", in the following manner as printed in the warrant.

A. Delete definition 1.3.23, "Green Space", in its entirety and renumber the remaining definitions so as to be sequential after the deletion.

B. Amend Section 1.3.3 to read as follows:

1.3.3 ACCESSORY BUILDING - A 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. Amend Section 1.3.10 by deleting the words "or LOT":

D. Amend Section 1.3 to add the following definitions and renumber the remaining definitions so as to be sequential after such additions.

1.3.18 FLOOR AREA RATIO - The ratio of the sum of the GROSS FLOOR AREA of all BUILDINGS on a LOT to the DEVELOPABLE SITE AREA of the LOT.

1.3.25 LOT - An area of land, undivided by any STREET, in one ownership with definitive boundaries ascertainable from the most recently recorded deed or plan which is 1) a deed recorded in Middlesex South District Registry of Deeds, or 2) a Certificate of Title issued by the Land Court and registered in the Land Court section of such Registry, or 3) title or record disclosed by any and all pertinent public documents or otherwise established by determination of a court. A corner LOT shall be any LOT abutting on two (2) or more streets at their intersection

1.3.34 MULTI-FAMILY DWELLING - A BUILDING for residential USE, other than a DWELLING conversion, containing more than two DWELLING UNITS but not more than 4 DWELLING UNITS.

1.3.47 USE, ACCESSORY - Any USE which is incidental and subordinate to a PRINCIPAL USE.

1.3.48 USE, PRINCIPAL - The main or primary USE of any land or LOT.

ARTICLE 3. ZONING BYLAW AMENDMENT – LOT SHAPE

Voted unanimously to amend the Zoning Bylaw, Section 4 Dimensional Regulations”, by adding a new Section 4.3.2.5 to read as follows, and by renumbering the remaining sections so as to be sequential after the addition.

4.3.2.5 LOT Shape - No LOT shall be laid out which is substantially irregular in shape. For purposes of this provision, substantially irregular is defined as a LOT having an index of regularity lower than four-tenths (0.4) as determined by the following formula. When the LOT is a hammerhead LOT, the index of regularity shall not be lower than 0.25.

$$r = \frac{16a}{p^2}$$

Where:

- r = The index of regularity
- a = The area of the LOT in square feet.
- p = The perimeter of the LOT in linear feet.

Provisions of this section shall not apply to LOTs shown on a plan and part of an application for a special permit or subdivision, the application for which has been duly filed as required by this Zoning Bylaw or the Massachusetts General Laws before the first publication of notice of the public hearing on such amendment required by Massachusetts General Laws Ch. 40A, s. 5.

ARTICLE 4. ZONING BYLAW AMENDMENT – HAMMERHEAD LOTS

Voted unanimously to amend the Zoning Bylaw, Section 6.1 “Hammerhead LOTS”, in the following manner.

A. Section 6.1.6 by adding the word “and” at the end so that Section 6.1.6 shall read as follows:

6.1.6 A condition of the permit be that the LOT shall not be further divided; and

B. Section 6.1.7 – Delete in its entirety and renumber the remaining items so as to be sequential after the deletion.

ARTICLE 5 – Zoning Bylaw Amendment – Special Permits and Sidewalks

Voted unanimously to amend the Zoning Bylaw, Section 9.2.7 “Special Permit Conditions”, by adding a new Section 9.2.7.14 to read in its entirety as follows:

- 9.2.7.14 A sidewalk, walkway or path shall be required along the entire frontage of a LOT. The Special Permit Granting Authority may also require other walkways and paths as it deems necessary to accommodate the safe movement of pedestrians and bicyclists.
- a) Said sidewalks, walkways or paths may be located on the LOT or within the layout of the STREET, with the Town’s permission, depending on the nature of the work and upon obtaining whatever permits are required, and shall be designed to connect with existing sidewalks on adjacent LOTS, if any.
 - b) If a sidewalk, walkway or path is authorized under a Special Permit to lead onto an adjacent LOT which is not subject to such Special Permit, no separate Special Permit or Site Plan Approval shall be required for the adjacent LOT in order to permit the construction of a sidewalk, walkway, or path.
 - c) Sidewalks, walkways or paths shall be designed and constructed according to standards established in the Town of Stow Subdivision Rules and Regulations, except when otherwise approved by the Special Permit Granting Authority.
 - d) Sidewalks, walkways or paths constructed on a LOT under a Special Permit shall be OPEN SPACE.
 - e) The Special Permit Granting Authority may waive the sidewalk requirement provided it can find that one of the following circumstances exist:
 - i. An alternative off-site improvement is preferable to encourage pedestrian circulation and bicycle use and to help minimize traffic impacts from a proposed development. In such cases, the alternative off-site improvements shall be located on ways and land owned or controlled by the Town of Stow, or in other locations where the property owner allows and agrees to the improvements. The cost of the required off-site improvements shall be kept in reasonable proportion to the anticipated pedestrian and vehicular traffic from the development.
 - ii. The applicant has suggested a contribution to the Stow Sidewalk Fund that is acceptable to the Special Permit Granting Authority in lieu of constructing the required sidewalk or an alternative off-site improvement.
 - iii. A 15’ wide easement for a future sidewalk, walkway or path has been granted to the Town over the frontage of a Hammerhead LOT.

- f) The property that is the subject of the Special Permit for a Single-Family Dwelling, Single-Family Dwelling with Accessory Apartment, Duplex Dwelling, Conversion to two Family Dwelling, or a Bed & Breakfast Home or Establishment are exempt from this requirement.

ARTICLE 5. ZONING BYLAW AMENDMENT – SPECIAL PERMITS AND SIDEWALKS

Voted unanimously to amend the Zoning Bylaw, Section 9.2.7, “Special Permit Conditions”, by adding a new section 9.2.7.14 to read in its entirety as follows:

- 9.2.7.15 A sidewalk, walkway or path shall be required along the entire frontage of a LOT. The Special Permit Granting Authority may also require other walkways and paths as it deems necessary to accommodate the safe movement of pedestrians and bicyclists.
- g) Said sidewalks, walkways or paths may be located on the LOT or within the layout of the STREET, with the Town’s permission, depending on the nature of the work and upon obtaining whatever permits are required, and shall be designed to connect with existing sidewalks on adjacent LOTS, if any.
 - h) If a sidewalk, walkway or path is authorized under a Special Permit to lead onto an adjacent LOT which is not subject to such Special Permit, no separate Special Permit or Site Plan Approval shall be required for the adjacent LOT in order to permit the construction of a sidewalk, walkway, or path.
 - i) Sidewalks, walkways or paths shall be designed and constructed according to standards established in the Town of Stow Subdivision Rules and Regulations, except when otherwise approved by the Special Permit Granting Authority.
 - j) Sidewalks, walkways or paths constructed on a LOT under a Special Permit shall be OPEN SPACE.
 - k) The Special Permit Granting Authority may waive the sidewalk requirement provided it can find that one of the following circumstances exist:
 - iv. An alternative off-site improvement is preferable to encourage pedestrian circulation and bicycle use and to help minimize traffic impacts from a proposed development. In such cases, the alternative off-site improvements shall be located on ways and land owned or controlled by the Town of Stow, or in other locations where the property owner allows and agrees to the improvements. The cost of the required off-site improvements shall be kept in reasonable proportion to the anticipated pedestrian and vehicular traffic from the development.
 - v. The applicant has suggested a contribution to the Stow Sidewalk Fund that is acceptable to the Special Permit Granting Authority in lieu of constructing the required sidewalk or an alternative off-site improvement.
 - vi. A 15’ wide easement for a future sidewalk, walkway or path has been granted to the Town over the frontage of a Hammerhead LOT.
 - l) The property that is the subject of the Special Permit for a Single-Family Dwelling, Single-Family Dwelling with Accessory Apartment, Duplex Dwelling, Conversion to two Family Dwelling, or a Bed & Breakfast Home or Establishment are exempt from this requirement.

ARTICLE 6. ZONING BYLAW AMENDMENT – WIRELESS COMMUNICATION FACILITIES

Voted unanimously, as amended, to amend the Zoning Bylaw, Section 3 “Use Regulations”, by adopting a new use, “Wireless Communication Facilities”, and in the following manner:

A. Insert new Section 3.8.1.12 in its entirety as follows:

3.8.1.12 Wireless Communication Facility - A transmission facility for the purpose of personal wireless communication services such as satellite dishes or antennae, with or without a building that shelters associated electronic or mechanical equipment.

B. Table of Principal Uses, add a new section under the heading “Institutional”, Wireless Communication Facilities, as follows, and to add footnote (8) to the Table of Principal Uses, each to read as follows:

Principal Uses	Residential	Business	Compact Business	Industrial
<u>Institutional Uses</u>				
Wireless Communication Facilities (8)	SPP	Y	N	Y

Commercial	Recreation Conservation	FloodPlain Wetlands	Refuse Disposal	Site Plan Approval
Y	SPP	N	Y	R

(8) Wireless Communication Facilities shall be allowed by right in all zoning districts only if they do not exceed three (3) feet in diameter and twelve (12) feet from ground level in overall height, or if they are entirely incorporated within a building. Any other arrangements for Wireless Communications Facilities are further regulated under Section 3.11.

C. Insert a new Section 3.11 to read in its entirety as follows:

3.11 Special Requirements for Wireless Communication Facilities

3.11.1 Purpose - The purpose of this section is as follows:

- a) to minimize adverse impacts of Wireless Communication Facilities, satellite dishes and antennae on adjacent properties and residential neighborhoods;
- b) to limit the overall number and height of such facilities to what is essential to serve the public convenience and necessity; and
- c) to promote shared use of facilities to reduce the need for new facilities.

3.11.2 No Wireless Communication Facilities shall be erected or installed except in compliance with the provisions of this Section 3.11.

3.11.3 Applicability - This Section 3.11 shall apply only to transmission facilities for the purpose of personal wireless communication services. Nothing in this section shall be construed to regulate or prohibit customary installations for the reception of wireless communication signals at home or business locations. Also, nothing in this section shall be construed to regulate or prohibit a Wireless Communication Facility on the basis of the environmental effects of radio frequency radiation (RFR) emissions.

3.11.4 General Requirements

- 3.11.4.1 All Wireless Communications Facilities shall be designed to minimize any adverse visual or economic impacts on abutters and other parties in interest as defined in MGL Ch. 40A, s.11.
- 3.11.4.2 All STRUCTURES associated with wireless service facilities shall be removed within one (1) year of cessation of USE.
- 3.11.4.3 Night lighting of Wireless Communication Facilities is prohibited except for low intensity security lights installed at or near ground level.
- 3.11.4.4 Section 7 of the Stow Zoning Bylaw shall not apply to Wireless Communication Facilities.
- 3.11.4.5 At least one sign shall be installed in a visible location at the base of the Wireless Communication Facilities that provides the telephone number where the operator in charge can be reached on a twenty-four (24) hour basis.

3.11.5 The following Wireless Communication Facilities shall be allowed by right:

- 3.11.5.1 In all zoning districts, a Wireless Communications Facility, provided that it does not exceed three (3) feet in diameter or twelve (12) feet from ground level in overall height and is otherwise in compliance with applicable dimensional requirements of this Bylaw, or provided that it is entirely incorporated within a building.
- 3.11.5.2 In all zoning districts, a Wireless Communication Facility specifically for use by a federally licensed amateur radio operator, providing that its height does not exceed applicable height limitations.
- 3.11.5.3 In all non-residential zoning districts, any Wireless Communication Facility, provided that its height does not exceed applicable height limitations and, if freestanding, that it is set back from all LOT lines at least the distance equal to the height of the facility, but not less than the otherwise applicable minimum yard requirements.

3.11.6 Special Permit - Any new Wireless Communication Facility that does not fall under Section 3.11.5, and any proposed extension in the height of the facility that results in the facility no longer meeting the requirements of Section 3.11.5, or the replacement of an existing facility that does not comply with Section 3.11.5 may be allowed only by special permit from the Planning Board in accordance with MGL Ch. 40A, s.9, subject to the following regulations, conditions and limitations.

- 3.11.6.1 The Wireless Communication Facility shall not be constructed to a height that exceeds 100 feet from ground level or such lesser height as is established pursuant to Section 3.11.1 b) as the maximum height necessary, or to a height that requires it to be illuminated at night under Federal Aviation Administration or Massachusetts Aeronautics Commission regulations, whichever is less.
- 3.11.6.2 In all residential districts, the Wireless Communication Facility shall be set back from all LOT lines at least the distance equal to the height of the facility, but not less than the otherwise applicable minimum yard requirements.

- 3.11.6.3 The Wireless Communication Facility shall be located a distance from any existing residential building that is at least twice the height of the facility.
- 3.11.6.4 The Wireless Communication Facility shall be located a minimum of 500 feet from any LOT or parcel listed on the inventory of historic properties in Stow.
- 3.11.6.5 The Wireless Communication Facility shall be designed to accommodate the maximum number of users technologically practical but not less than three (3). The Planning Board may require as a condition of any special permit granted that the owner of any facility permit other users to use the facility upon payment of a reasonable charge, which shall be determined by mediation or binding arbitration if the parties cannot agree and which shall be set forth as a condition in a special permit.
- 3.11.6.6 Fencing shall be provided to control unauthorized entry to Wireless Communication Facilities.
- 3.11.6.7 The Special Permit application for a Wireless Communication Facility shall be accompanied by a plan showing the location of the facility in relation to LOT lines and all buildings within 500 feet of the facility, and plans for the installation or construction of the facility to show compliance with the provisions of this section, and supplemental information as may be required in the Rules and Regulations for a Special Permit for Wireless Communication Facilities.
- 3.11.6.8 Mandatory Findings - The Planning Board, as special permit granting authority, shall not issue a special permit for a Wireless Communication Facility unless it finds that the Wireless Communication Facility:
- a) cannot for technical or physical reasons be located on an Existing Wireless Communication Facility that provides similar coverage;
 - b) is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest as defined in MGL Ch. 40A, s.11;
 - c) cannot be located at any other practicably available site that is less visible to the general public due to technical requirements, topography or other unique circumstances. The applicant shall have the burden of showing what alternative sites it considered and why such sites are not practicably available;
 - d) is not designed and constructed any larger than the minimum height and size necessary to accommodate its anticipated future use and cannot be further reduced in height due to technical requirements, topography or other unique circumstances;
 - e) is sited and colored in such a manner that it is suitably screened, and to the extent possible, invisible from residential buildings or public streets within 500 feet;
 - f) is designed to accommodate the maximum number of users technologically practical but not less than three (3);
 - g) is colored so that it will, as much as possible, blend in with its surroundings when viewed from residential buildings or public streets within 500 feet; using, if necessary, different colors to blend in the facility as invisibly as possible with the landscape or buildings on the ground and the sky above the tree or building line;
 - h) is necessary because already existing facilities cannot accommodate the applicant;
 - i) is in compliance with applicable Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission, and the Massachusetts Department of Public Health regulations;

j) complies with all applicable requirements of this Bylaw.

3.11.7 Wireless Communication Facility Operating Permit - Any Wireless Communication Facility installed in compliance with this Bylaw shall require an annual Permit from the Building Inspector. No Wireless Communication Facility shall be constructed, operated, altered, repaired or maintained except in exact conformance with such Permit.

3.11.7.1 Application - All applications shall be made to the Building Inspector in such form as he may require, and such applications shall include at least: 1) the location, by STREET number, of the proposed Wireless Communication Facility; 2) the name and address of the Wireless Communication Facility operator in charge and the owner of the LOT where the facility is to be located; 3) a scale drawing showing the proposed construction, method of installation or support, colors, display, dimensions, location of the wireless service facility on the site, and illumination, if any; 4) such other pertinent information as the Building Inspector may require to ensure compliance with the Bylaw and any other applicable law; 5) a copy of the Special Permit, as amended, granted by the Planning Board under this Bylaw; and 6) the application must be signed by the owner. The Building Inspector shall have the authority to reject any Permit application which is not complete when submitted.

3.11.7.2 Time Limitations - The Building Inspector shall approve or disapprove any application for a Permit within 30 days of receipt of the application. If the Building Inspector should fail to approve or disapprove an application for a Permit within such 30-day period, the application shall be deemed to be approved.

3.11.7.3 Fees - The Board of Selectmen of the Town of Stow shall establish and from time to time review the Permit fee for Wireless Communication Facilities which shall be published as part of the Permit application form.

3.11.7.4 Certifications - The owner or operator in charge of the Wireless Communication Facility shall certify annually to the Building Inspector that he is in compliance with the standards of the Federal Communications Commission, Federal Aviation Administration, the Massachusetts Department of Public Health regulations, and the American National Standards Institute and evidence of required maintenance shall be filed with the Building Inspector by the special permit holder.

ARTICLE 8. ZONING BYLAW AMENDMENT – ASSISTED LIVING RESIDENCES

Voted unanimously to amend the Zoning Bylaw by adopting a new use "Assisted Living Residences", as printed in the warrant except for the following changes:

1. Section 3.10 "Table of Principal Uses" under "Residential", change "SPP (10)" to read "N".
 2. Section 4.5.2 "Table of Dimensional Requirements", delete references to Residential District.
 3. Section 4.5.2.1 – Delete the first sentence, which references the Residential District.
 4. Section 8.8.1 – Delete the words "Residential and".
 5. Section 8.8.7.1 – Delete the first sentence, which references the Residential District.
- A. Amend Section 1.3 to add the following definitions and renumber the remaining definitions so as to be sequential after such additions.

ASSISTED LIVING RESIDENCE - Any entity, however organized, which meets all of the following criteria: Provides room and/or board in a residential living environment; provides services to residents who do not require 24-hour skilled nursing care, but need assistance with activities of daily living; and in any event collects payments for the provision of these services.

ASSISTED LIVING 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 contained within an ASSISTED LIVING RESIDENCE.

- B. Amend Section 3.10, Table of Principal Uses, by inserting a new section and new footnote (9) t the table of Principal Uses, each to read as follows:

Principal Uses	Residential	Business	Compact Business	Industrial	Commercial
<u>Residential Uses</u>					
ASSISTED LIVING RESIDENCE	N	SPP (9)	N	N	N

Principal Uses	Recreation Conservation	FloodPlain Wetlands	Refuse Disposal	Site Plan Approval
<u>Residential Uses</u>				
ASSISTED LIVING RESIDENCE	N	N	N	R

- (9) The total number of ASSISTED LIVING UNITS shall not exceed 6% of the total single family DWELLING UNITS in Stow.

- C. Amend Sections 3.2.3 and 3.3.2 of the Bylaw that list uses permitted by special permit granted by the Planning Board by adding the following:

3.2.3.5, ASSISTED LIVING RESIDENCE
 3.3.2.8, ASSISTED LIVING RESIDENCE

- D. Amend the following sections of the Bylaw that list "elderly care facilities" as a permitted use:
1. Section 3.2.2.7 - delete the words "or elderly care facilities" to read as follows: "Nursing Homes."
 2. Section 3.10, Table of Principal Uses column, Institutional Uses category, by changing the line that reads "Nursing Homes or Elderly Care Facility" to read "Nursing Home".
- E. Amend Section 4, "Dimensional Regulations, by adding a new Section 4.5, "Special Provisions and Exceptions to Dimensional Regulations", and Section 4.5.1, Dimensional Regulations for ASSISTED LIVING RESIDENCE, as stated below:

4.5.1 Dimensional Regulations for ASSISTED LIVING RESIDENCE

In the Business District, an ASSISTED LIVING RESIDENCE shall be built according to the following dimensional standards.

minimum LOT area	- 217,800 sq. ft.
minimum LOT frontage	- 200 ft.
minimum LOT width	- As otherwise set forth in this Bylaw
minimum FRONT, SIDE and REAR YARDS	- 50 ft.
minimum setback of pavement areas other than ACCESS DRIVEWAYS and walk ways from the front LOT line	- 50 ft.
minimum separation of BUILDINGS within the LOT	- 20 ft.
maximum height of STRUCTURES	- 35 ft.
minimum OPEN SPACE	- 30 %
maximum FLOOR AREA RATIO (business district only)	- 0.30

- 4.5.1.1 Dimensional Regulation of ASSISTED LIVING RESIDENCES in the Business District shall be subject to FLOOR AREA RATIO.
- 4.5.1.2 All privileges and exemptions provided to single-family residential uses or BUILDINGS under this Bylaw as set forth in Section 3.8.1.11 or otherwise, shall also apply to ASSISTED LIVING RESIDENCES.
- 4.5.1.3 Where the requirements of ASSISTED LIVING RESIDENCES differ from or conflict with other requirements of the Bylaw, the requirements established herein shall prevail. The above requirements shall be met and where appropriate, the Planning Board may impose additional requirements as a condition of the Special Permit.

F. Amend Section 7, Parking Regulations, to add ASSISTED LIVING RESIDENCE as follows:

1. Section 7.3.3.3, Residential, and add a new row to the table to read as follows:

ASSISTED LIVING RESIDENCE	1 space for each employee on the shift having the greatest number of employees, including resident staff. The number of resident spaces shall be 40% of the total units.
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2. Section 7.7, Off-Street Parking and Loading Area Design Requirements, and amend the first sentence to read as follows:

"Any parking area serving a use or uses other than a single-family DWELLING, duplex DWELLINGS, ACCESSORY APARTMENTS, SENIOR LIVING RESIDENCE or an ASSISTED LIVING RESIDENCE with ten (10) or fewer residents, shall be designed in compliance with the following standards."

G. Insert new Section 8.7, ASSISTED LIVING RESIDENCE, as stated below:

8.7 ASSISTED LIVING RESIDENCES

Purpose - The purpose of ASSISTED LIVING RESIDENCES is to provide the opportunity for the development of housing most beneficial for the SENIOR and ELDER population of Stow at greater density than would normally be allowed provided that said LAND development:

- a) protects Stow's rural character by development of land which preserves land for conservation, OPEN SPACE, recreation, agriculture and forestry;
- b) promotes more efficient use of land while protecting natural resources, such as water resources, wetlands, flood plains and wildlife;
- c) does not detract from the livability and aesthetic qualities of the environment;
- d) preserves unique and significant historical and archaeological resources, and scenic vistas;
- e) is consistent with the objectives of the Zoning Bylaw;
- f) provides a greater mixture of housing types and more energy-efficient and cost-effective residential development; and
- g) reduces the typical costs of providing municipal services to residential developments.

8.7.1 Districts in which the USE is Allowed - The Planning Board may grant a special permit for the development and construction of ASSISTED LIVING RESIDENCES in the Business District in accordance with this Section and MGL, Ch. 40A, s.9.

8.7.1.1 The total number of ASSISTED LIVING UNITS shall not exceed 6% of the total single family DWELLING UNITS in Stow.

8.7.2 Procedural Requirements

8.7.2.1 All proposed ASSISTED LIVING RESIDENCES shall require the record owner to obtain a special permit from the Planning Board. It is strongly recommended that an applicant submit a preliminary site plan of the proposed development for review by the Planning Board, other Town Boards, and abutters before an application for Special Permit is formally filed with the Town Clerk and the Planning Board.

8.7.2.2 If the ASSISTED LIVING RESIDENCES require approval under the Subdivision Control Law, MGL Ch. 41, the "ASSISTED LIVING RESIDENCES Site Plan" shall contain a plan in the form and with the contents required of a Definitive Subdivision by the Rules and Regulations Governing the Subdivision of Land in Stow. The application for a Special Permit for ASSISTED LIVING RESIDENCES and for approval of a Definitive Subdivision plan shall be filed and considered concurrently to the greatest extent possible and practicable in the Planning Board's sole judgment and determination to the extent permitted by law.

8.7.3 Planning Board Action - In evaluating the proposed ASSISTED LIVING RESIDENCES, the Planning Board shall consider the general objectives of this bylaw and of ASSISTED LIVING RESIDENCES in particular. It shall also consider the existing and probable future development of surrounding areas, the appropriateness of the proposed layout of the site, and the proposed layout and use of the Open Land in relation to the topography, soils and other characteristics and resources of the tract of land in question. The Planning Board shall grant a Special Permit for ASSISTED LIVING RESIDENCES if it finds that the ASSISTED LIVING RESIDENCES:

- a) are appropriate to the natural terrain of the tract of land to be developed;

- b) provide for the convenience and safety of vehicular and pedestrian movement in the development in a manner that is compatible with the narrow, tree-lined country roads of Stow;
 - c) the application sets forth a specific plan for maintenance of all OPEN SPACE, waste disposal and drainage facilities, roadways and other improvements to be constructed in the development;
 - d) comply in all respects to the requirements of the Bylaw and enhance the purpose and intents of ASSISTED LIVING RESIDENCES, and
 - e) are consistent with the Stow Master Plan or succeeding plan, as amended.
- 8.7.3.1 The Planning Board shall consider the recommendations of the Board of Health, the Conservation Commission, other Town Boards, and the Town's consulting engineer in making said findings.
- 8.7.3.2 The Planning Board may require changes to the " ASSISTED LIVING RESIDENCE Site Plan" and impose additional conditions, safeguards and limitations, as it deems necessary to secure the objectives of this bylaw provision.
- 8.7.4 Application for an ASSISTED LIVING RESIDENCE Special Permit** - Any person who desires an ASSISTED LIVING RESIDENCE Special Permit shall submit an application in writing which meets the requirements set forth herein and all other information which may be required by the Planning Board under its Rules and Regulations for ASSISTED LIVING RESIDENCE.
- 8.7.4.1 Contents of an Application for a Special Permit for ASSISTED LIVING RESIDENCES - The application for a Special Permit for ASSISTED LIVING RESIDENCES shall be accompanied by an "ASSISTED LIVING RESIDENCES Site Plan" showing the information required by the Rules and Regulations for ASSISTED LIVING RESIDENCES. The information shall include, but not be limited to: topography; soil characteristics as shown on the Soil Conservation Service maps; wetlands as defined by MGL Ch. 131, s.40 and the Stow Wetlands Protection Bylaw; flood plain boundary lines; existing types of vegetation; any other unique natural, historical, archaeological and aesthetic resources; the proposed layout of the LOTS; the proposed location of ASSISTED LIVING RESIDENCES, garages and other accessory structures; the proposed location of roads, driveways, wells, septic systems and utilities; proposed finished grades; proposed landscaping; the proposed layout and land use plan of the OPEN SPACE in the ASSISTED LIVING RESIDENCE development.
- 8.7.5 **Permitted USES** - There shall be permitted in any ASSISTED LIVING RESIDENCE development:
- 8.7.5.1 ASSISTED LIVING UNITS
 - 8.7.5.2 Accessory uses and structures incidental to principal uses indicated above.
 - 8.7.5.3 Support services that are necessary to meet the needs of its residents such as but not limited to skilled nursing, medical and other health services, recreation and leisure facilities, a community center, or food services.
 - 8.7.5.4 Convenience services intended primarily for its residents may be included, such as Retail Stores, Banks, Restaurants, and Service Establishments, provided that not more than 10% of the total FLOOR AREA of the development is dedicated to such uses.
- 8.7.6 Special Regulations for ASSISTED LIVING RESIDENCE**

8.7.6.1 The Planning Board may permit the SIDE YARD requirement to be eliminated so as to allow the separate sale of individual ASSISTED LIVING UNITS within an ASSISTED LIVING RESIDENCE along with its accompanying YARD area.

8.7.6.2 All privileges and exemptions provided to single-family residential uses or BUILDINGS under this Bylaw, as set forth in Section 3.8.1.11 or otherwise, shall also apply to ASSISTED LIVING RESIDENCES.

8.7.6.3 BUILDING design for ASSISTED LIVING RESIDENCES.

- a) BUILDINGS shall be of a design similar to the architecture in historic villages of New England in terms of scale, massing, roof shape, spacing and exterior materials. Alternative designs may be allowed provided the Special Permit Granting Authority finds the alternative design is consistent with the purpose and intent of the Bylaw.
- b) BUILDINGS shall have a vertical orientation, meaning either that the BUILDING shall actually have a greater height than width, or that the facades and roof lines of the BUILDING are designed to reduce the massing and bulk so that it appears as a group of smaller masses with a distinct vertical orientation.
- c) The BUILDINGS shall be articulated to achieve a human scale and interest. The use of different textures, shadow lines, detailing and contrasting shapes is required. Not more than fifty (50) feet of a BUILDING shall be in the same vertical plane.
- d) The BUILDINGS shall be faced with materials used in historic New England architecture. Alternative designs may be allowed provided the Special Permit Granting Authority finds the alternative design is consistent with the purpose and intent of the Bylaw.

8.7.7 Special Regulations for ASSISTED LIVING RESIDENCES

8.7.7.1 In the Business District, no ASSISTED LIVING RESIDENCE development shall exceed a FLOOR AREA RATIO of 0.30.

8.7.7.2 ASSISTED LIVING RESIDENCES and ASSISTED LIVING UNITS shall not be eligible for subsequent conversion to conventional apartments or DWELLING UNITS.

8.7.7.3 Each ASSISTED LIVING UNIT shall be occupied by at least one person fifty-five (55) years of age or older and no ASSISTED LIVING UNIT shall be occupied by more than three persons. No person under the age of twenty-one (21) shall reside within an ASSISTED LIVING UNIT in ASSISTED LIVING RESIDENCES for more than three (3) months in any twelve (12) consecutive month period, which shall be set forth in a deed restriction, restrictive covenant, or other document to be recorded with the Special Permit and to run with the land in perpetuity. This requirement shall be an express condition of any Special Permit granted hereunder and shall be in such form as is satisfactory to the Planning Board, to be enforceable by any unit owners' association or by the owner in any legal action as may be permitted by law or equity.

8.7.7.4 A minimum of 33% of the ASSISTED LIVING UNITS shall comply with ADA accessibility standards for all living areas.

8.7.7.5 The Planning Board may require a landscaped buffer for ASSISTED LIVING RESIDENCES in addition to the minimum required YARD as deemed appropriate in the opinion of the Planning Board based on the size, shape, location, zoning, and uses of abutting parcels, topography, or other similar considerations for the tract of land.

8.7.7.6 ASSISTED LIVING UNITS constructed under a Special Permit issued in accordance with this section are exempt from Section 8.6, Phasing of Growth.

- 8.7.8 **Dimensional Requirements for OPEN SPACE** - A minimum of 30% of the total area of the tract of land to be developed as ASSISTED LIVING RESIDENCES shall be designated as OPEN SPACE.
- 8.7.9 **Use of the OPEN SPACE** - The OPEN SPACE shall be dedicated and used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses. No other uses shall be allowed in the Open Space, except as otherwise provided herein
- 8.7.9.1 Wells and sewage disposal areas or facilities may be located on the OPEN SPACE as permitted or regulated by Title 5 or local Board of Health regulations, if serving the ASSISTED LIVING RESIDENCES, and if such use, in the opinion of the Planning Board, enhances the specific purpose of ASSISTED LIVING RESIDENCES to promote better overall site planning. Septic disposal easements shall be no larger than necessary. If any portion of the OPEN SPACE is used for the purpose of a community well or leaching area, the Planning Board shall require adequate assurances and covenants that such facilities shall be maintained by the LOT owners within the ASSISTED LIVING RESIDENCES development.
- 8.7.9.2 In addition, a portion of the OPEN SPACE may also be used for ways serving as pedestrian walks, bicycle paths and emergency access or egress to ASSISTED LIVING RESIDENCES or adjacent land if such a use, in the opinion of the Planning Board, enhances the general purpose of this Bylaw and enhances better site and community planning, and if the Planning Board finds that adequate assurances and covenants exist, to ensure proper maintenance of such facilities by the owner of the OPEN SPACE.
- a) Ownership of the OPEN SPACE - The OPEN SPACE shall be owned in common by the owners of the ASSISTED LIVING RESIDENCES or by a corporation or trust owned, or to be owned, by the owners of the ASSISTED LIVING RESIDENCES. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the residential units.
- 8.7.9.3 In all cases, a perpetual restriction approved by the Planning Board and enforceable by the Town of Stow shall be imposed on the use of such land, providing in substance that the land be kept in its natural state and that the land shall not be built upon or developed or used except in accordance with the provisions of ASSISTED LIVING RESIDENCES as set forth herein and, if applicable, as further specified in the decision of the Planning Board governing the individual ASSISTED LIVING RESIDENCES.
- 8.7.9.4 At the time of its conveyance the Open Space shall be free of all encumbrances, mortgages or other claims, except as to easements, restrictions and encumbrances required or permitted by this Bylaw.
- 8.7.10 **Streets and Utilities** - All streets and ways, whether public or private, wastewater disposal systems, drainage facilities, drinking water supplies, and utilities shall be designed and constructed in compliance with the Town of Stow Rules and Regulations Governing the Subdivision of Land, as amended, whether or not the ASSISTED LIVING RESIDENCES are located in a subdivision.
- 8.7.11 **Performance Guarantee**- Before the issuance of any building permits for ASSISTED LIVING RESIDENCES, the petitioner shall agree to complete the required improvements specified in the decision, such construction and installation to be secured in accordance with performance guarantee requirements of the Town of Stow Rules and Regulations Governing the Subdivision of Land. Special exceptions to the Subdivision Rules and Regulations may be authorized by the Planning Board in granting a Special Permit hereunder, provided the Board determines such exceptions are in the public interest and are consistent with the purposes of Section 8.7 of the Bylaw.

8.7.12 Revisions and Amendments of an ASSISTED LIVING RESIDENCES Special Permit - Any change in the layout of streets, in the configuration of the OPEN SPACE, in the ownership or use of the OPEN SPACE, or any other change which, in the opinion of the Planning Board, would significantly alter the character of ASSISTED LIVING RESIDENCES shall require the written approval of the Planning Board. The Planning Board may, upon its own determination, require a new Special Permit and hold a public hearing pursuant to the requirements of this bylaw if it finds that the proposed changes are substantial in nature and of public concern.

NOTE: The numbering of the sections of the foregoing zoning bylaw amendment differs from that of the printed warrant. Except for the changes noted in the motion, the content remains as printed in the warrant.

ARTICLE 10. Zoning Map Amendment

Voted unanimously to amend the Zoning Map by rezoning the following parcels of land from Residential to Recreation/Conservation so identified on the stow tax rolls as the following parcels:

1. Map R-8, Parcel 7A and recorded in the Middlesex Registry of Deeds as a deed, instrument number #736 and recorded on 10/9/98 at 12:37 P.M. now owned by Wedgewood Properties, Inc.
2. Map R-4, Parcel 39A, and recorded in the Middlesex Registry of Deeds in Book 24178, Page 243, dated 03/1/90, owned by Felix and Sandra Pittorino, F & S Trust.
3. Map R-4, Parcel 43, and recorded in the Middlesex Registry of Deeds in Book 11689, Page 506, dated 06/9/69, owned by Pitt Construction Corporation.
4. Map R-9, Parcels 43, 45, 47, 48, 49, 50, 51, and 53 and recorded in the Middlesex Registry of Deeds in Book 21668, Page 310, dated 03/1/90, owned by Wedgewood Properties, Inc.
5. Map R-9, Parcels 44 and 54 and recorded in the Middlesex Registry of Deeds, Book 27733, Page 408, dated 10/1/97, owned by Wedgewood Properties, Inc.
6. Map R-9, Parcel 46 and recorded in the Middlesex Registry of Deeds, Book 27733, page 405, dated 10/1/97, owned by Wedgewood Properties, Inc.

In the event of discrepancies between the Assessors' maps and the deeds and plans recorded at the Middlesex South Registry of Deeds and the Land Court, the recorded deeds and plans shall govern.



