



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

**January 8, 2024**

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

**Applicant:** Winona Wall

**Owner:** Winona Wall

**Address:** Winona Wall  
31 Hale Road  
Stow, MA 01775

**Premises Affected:**

**31 Hale Road**, Stow, shown on Stow Property Map Sheet U-5 as Parcel No. 15A containing 20,000+/- sq. ft.

**Property Deed:** Middlesex Registry of Deeds Book 80454, Page 187

**Special Permit Requested:**

A special permit is sought under G.L.c.40A, s.6 and Stow Zoning Bylaw Section 3.9 (Non-Conforming Uses and Structures), to allow the reconstruction of a porch at a larger footprint, the construction of a new deck and related site improvements on a pre-existing, non-conforming lot.

A duly posted Public Hearing was held at 380 Great Road and online via Zoom Web Conferencing Service on December 4, 2023, and continued to January 8, 2024. The Public Hearing was closed at the conclusion of the January 8, 2024, Public Hearing session. Zoning Board of Appeals Members David Hartnagel, Andrew Crosby, Andrew DeMore, and Ernest Dodd were present throughout the proceedings. Ruth Sudduth Kennedy was present at the December 4, 2023, proceeding only.

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

1. Application comprising of the following documents:
  - Application Form, received November 6, 2023
  - Application Fee
  - Project Narrative, dated October 31, 2023
  - Certified List of Abutters

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- Property Deed
  - Architectural Plans, prepared by Bee Howes Architects, dated September 2, 2023
  - Site Plan, prepared by Dillis & Roy Civil Design Group, dated November 3, 2023
2. Correspondence
- FR: Conservation Commission; RE: Notice of Public Hearing – 31 Hale Road

**Findings of the Board:**

1. The Applicant seeks a Special Permit for the reconstruction of a porch and the construction of a deck on a pre-existing, non-conforming lot. The lot contains 20,000 +/- square feet (65,340 square feet required under the present Zoning Bylaw) and has 0 linear feet of frontage (200 square feet required under the present Zoning Bylaw). The lot contains frontage along Lake Boon to the East and West.
2. The lot is within the Residential District. The lot is partially within the Floodplain Overlay District. The site plan, dated November 3, 2023, does not contain the Floodplain Overlay District boundaries.
3. The lot contains one single-family dwelling with an attached garage. The existing dwelling conforms to the front yard setback and the north side yard setback of the present Zoning Bylaw.

The existing single-family dwelling does not conform to the south side yard setback and the rear yard setback requirements of the present Zoning Bylaw. The existing dwelling is setback 11.8 feet from the south side yard setback (25 feet required under the present Zoning Bylaw). The existing dwelling is setback 32.9 feet from the rear yard setback (40 feet required under the present Zoning Bylaw).

4. One of the existing sheds is located within the north side yard setback. The second shed is located within the north side yard and rear yard setbacks. There are no proposed modifications to the sheds.
5. The Applicant seeks to reconstruct an existing porch at a larger footprint at the front of the dwelling. The porch is proposed to be covered and screened in. The porch is not within any setbacks of the present Zoning Bylaw.

The proposed porch does not intensify any existing nonconformities.

6. The Applicant seeks to construct a new deck. The deck is proposed to be at the rear of the dwelling. The deck is fully within the rear yard setback. The existing rear yard setback is 32.9 feet; the proposed rear yard setback is 24.8 feet.

The proposed deck intensifies existing rear yard nonconformity. The Board finds that the intensification of the existing nonconformity is not detrimental to the neighborhood, pursuant to Section 3.9.7.1.2 of the present Zoning Bylaw.

7. The proposed porch and deck will increase the lot coverage by 280 square feet. The Residential district does not regulate FLOOR AREA RATIO.
8. Prior to site disturbance, two siltation barriers, composed of straw bales and sediment control fabric, are proposed between the existing structure and Lake Boon.

9. The Applicant has filed with the Conservation Commission. An Order of Conditions was issued to the Applicant on December 13, 2023.
10. Members Ernest Dodd and Andrew DeMore visited the site on December 6, 2023. Associate Member Maria McFarland (non-voting) also visited the site on December 6, 2023. At the visit to the site, members observed the proposed location of the porch and deck.
11. The Board makes the following mandatory findings as required by Section 9.2.6 of the Zoning Bylaw:

The Board finds the proposed use and development, as conditioned herein:

- a. is in harmony with the purpose and intent of the Zoning Bylaw;
- b. will not be detrimental or injurious to abutting properties or ways, the neighborhood, community amenities or the Town of Stow;
- c. is appropriate for the site for which the petition is submitted and is related harmoniously to the terrain and to the use, scale and proportions of existing and proposed BUILDINGS in the immediate vicinity that have functional or visual relationship to the proposed use;
- d. includes sufficient mitigating measures for any adverse effects noted in reports from town boards and agencies, reports from consultants and public hearings;
- e. will result in no pollution or contamination of the GROUND WATER, a GROUND WATER recharge area, a well, pond, stream, watercourse or inland wetland;
- f. will result in no significant effect on the "level of service" (LOS) of the town roads or intersections of these roads;
- g. will result in no significant effect on level of service for any service provided by the Town;
- h. will result in no redirection of existing surface water runoff such that there would be material impact on abutting parcels or downstream properties;
- i. will result in no transport by air or water of erodible material beyond the boundary line of the LOT;
- j. will provide adequate provision for pedestrian traffic; and
- k. will comply with requirements of Site Plan Approval and all other applicable requirements of this Bylaw.

#### **VOTE**

Pursuant to Massachusetts General Laws, Chapter 40A, after referring to the application for Special Permit, the Board, by roll call vote of the four members present throughout the proceedings (David Hartnagel, Andrew Crosby, Andrew DeMore, and Ernest Dodd), **VOTES TO GRANT A SPECIAL PERMIT** to allow construction of a porch and deck subject to the following conditions:

1. The proposed construction shall result in no pollution or contamination of the GROUND WATER, a GROUND WATER recharge area, a well, pond, stream, watercourse, or inland wetland.
2. The proposed construction shall result in no redirection of existing surface water runoff such that there would be material impact on abutting parcels or downstream properties.

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3. The proposed construction shall result in no transport by air or water of erodible material beyond the boundary line of the LOT.
4. The design and construction shall be essentially in conformance with documents and plans on file with the Board.
5. The proposed construction shall comply with conditions set by other Town Departments, Boards and Commissions.
6. The proposed construction shall comply with all applicable requirements of the Zoning Bylaw.
7. Exterior construction activity shall take place only between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday (excluding holidays), and 8:00 a.m. to 12:00 p.m. Saturdays unless specific approval is granted by the Building Commissioner.

The Board has complied with all statutory requirements in the granting of this Special Permit.

Two copies of this decision, together with copies of the application for special permit, site plans, other plans and records, have been filed with the Town Clerk. A detailed record of the proceedings, setting forth the reasons for the decision, shall be filed within fourteen (14) days with the Town Clerk and shall be a public record. Copies of this decision have been or will be mailed to all parties, persons and boards as required by Chapter 40A, Sections 11 and 15.

This Special Permit shall lapse with two (2) years of recording unless substantial use or construction has commenced or in the case of a permit for construction or reconstruction, if construction has not begun by such date, except for good cause (Massachusetts General Laws Chapter 40A, Section 9).

This Special Permit shall not take effect until a copy of the decision has been recorded, at the owner's expense, in the Registry of Deeds and duly indexed or noted on the owner's certificate of title. A copy of the recorded decision, certified by the Registry, or notification by the owner of the recording including recording information, shall be furnished to the Board of Appeals, Town Clerk and Building Inspector.

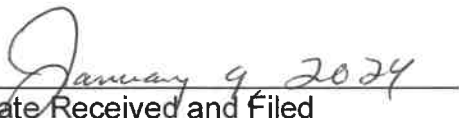
Any appeal from this decision shall be made pursuant to Massachusetts General Laws Chapter 40A, Section 17 and must be filed within twenty (20) days after the decision has been filed with the Town Clerk.

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



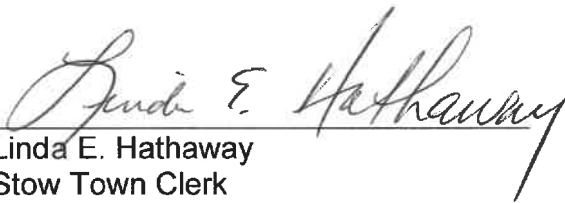
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Andrew J DeMore  
Zoning Board of Appeals Clerk



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Linda E. Hathaway  
Stow Town Clerk