



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

April 8, 2024

**NOTICE and DECISION
114 Barton Road**

SPECIAL PERMIT

Applicant: Vicki Rousell
Paul Rotker

Owner: Vicki Rousell
Paul Rotker

Address: 114 Barton Road
Stow, MA 01775

Premises Affected:

114 Barton Road, Stow, shown on Stow Property Map Sheet U-2 as Parcel No. 2 – containing 0.1 acres.

Property Deed: Middlesex Registry of Deeds Book 70967, Page 298

Special Permit Requested:

A Special Permit is sought under G.L.c.40A, s.6 and Stow Zoning Bylaw Section 3.9 (Non-Conforming Uses and Structures), to allow construction of a storage shed within the yard setbacks 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 April 8, 2024. The public hearing closed at the end of April 8, 2024, session. Zoning Board of Appeals Members David Hartnagel, Andrew Crosby, Andrew DeMore, Ernest Dodd, and Ruth Kennedy Sudduth were present throughout the proceedings.

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

1. Application comprising of the following documents:

- Application form;
- Certified List of Abutters;
- Application Fee;
- Property Deed;

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- Architectural Drawings of “Garden Transom Dormer” Shed;
- Site Plan, Dated September 30, 1991, and revised October 21, 1991;
- Project Description Letter, Received February 26, 2024

Findings of the Board:

1. The lot is pre-existing non-conforming as to lot area (0.1 acres) and frontage requirements (8.0 linear feet) of the present Zoning Bylaw.

The lot is within the Residential District and the Flood Plain Overlay District. The building setbacks for the Residential District are 30 feet front yard, 25 feet side yard, and 40 feet rear yard.

2. The applicant proposes the construction of a storage shed to replace an existing storage shed. The existing storage shed is 60 square feet in area (10 feet by 6 feet). The existing shed is placed north of Barton Road and south of the dwelling on the site. The existing shed is approximately 3 feet off of the eastern property line and northwest of the garage on the abutting property of 116 Barton Road. The proposed storage shed will have an area of 140 square feet (10 feet by 14 feet). No building permit is required for structures less than 200 feet in area.
3. The Architectural Drawings for the proposed storage shed list a range of height options based on the width of the selected width and depth. The tallest height of the listed sheds is 11 feet 7 inches. The height of 11 feet 7 inches is not detrimental to the neighborhood.
4. The Architectural Drawings for the proposed storage shed list two foundation options: monolithic concrete foundation and block foundation. During the public hearing, the Applicant stated that the preferred foundation is the concrete or stone pad.
5. The location of the shed is proposed to be located within the yard setbacks of the site. The Board finds that the purpose of the Special Permit is for permission to place the storage shed within the setbacks.
6. The proposed location of the shed, although it does not meet the yard setback requirement, does not substantially increase the nonconforming nature of the lot and will not be substantially more detrimental than the existing nonconforming structure or use to the neighborhood.
7. 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

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- town boards and agencies, reports from consultants and public hearings;
- E. will result in no pollution or contamination of the GROUND WATER, a GROUND WATER recharge area, a well, pond, stream, watercourse or inland wetland;
 - F. will result in no significant effect on the "level of service" (LOS) of the town roads or intersections of these roads;
 - G. will result in no significant effect on level of service for any service provided by the Town;
 - H. will result in no redirection of existing surface water runoff such that there would be material impact on abutting parcels or downstream properties;
 - I. will result in no transport by air or water of erodible material beyond the boundary line of the LOT;
 - J. will provide adequate provision for pedestrian traffic; and
 - K. will comply with requirements of Site Plan Approval and all other applicable requirements of this Bylaw.

VOTE

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

1. Construction of a shed larger than 200 square feet shall require a building permit.
2. The proposed storage shed shall not encroach the property line greater than the existing storage shed. The proposed shed shall be placed essentially in the same location as the existing shed.
3. The proposed storage shed shall not interfere with access onto the site.
4. The proposed storage shed shall not exceed 20 feet in height.
5. 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.
6. 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;
7. The proposed construction shall result in no transport by air or water of erodible material beyond the boundary line of the LOT.
8. The design and construction shall be essentially in conformance with documents and plans on file with the Board.
9. The proposed construction shall comply with conditions set by other Town Departments, Boards and Commissions.
10. The proposed construction shall comply with all applicable requirements of the Zoning Bylaw.

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11. 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.

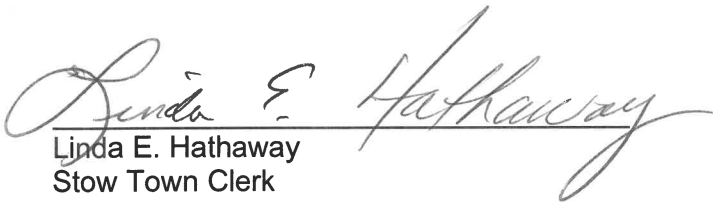
Signed on behalf of and with the permission of the Zoning Board of Appeals.



Andrew J. DeMore
Zoning Board of Appeals Clerk



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Linda E. Hathaway
Stow Town Clerk

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