Town of Stow
PLANNING BOARD
380 Great Road
Stow, Massachusetts 01775
(978) 897-5098
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NOTICE OF DECISION and DECISION

SPECIAL PERMIT MODIFICATION NO. 1

Robert T. Albright
Crow Island and Track Road
October 18, 2011

1. Petition

This document is the DECISION of the Stow Planning Board (hereinafter, the Board) on the Petition of Bernard Donahue (hereinafter, the Petitioner) to amend the Crow Island and Track Road Special Permit, dated June 12, 1992 (hereinafter Original Special Permit).

Pursuant to Section 3.1.2, 9.2 and 9.3 of the Zoning Bylaw the Petitioner seeks to include the use of rental and sales of canoes, kayaks and other non-motorized boats and other boating related equipment on the Crow Island property.

2.

Petitioner
Bernard Donahue
14 Riverside Park
Maynard, MA 01754

Property Owner
Robert Albright
84 Boxboro Road
Stow, MA 01775

3. Location

Said property is located off of Track Road and is shown on Stow Property Map Sheet R-23 as Parcel # 1, 3 and 4 and Map Sheet R-24, Parcel 1 (hereinafter, the Site).

4. Board Action

After due consideration of the Petition, the record of proceedings, and based upon the findings and conclusions set forth below, the Board, on October 18, 2011, by a vote of five (5) members present at the public hearing, voted to **Grant** the request to modify the Original Special Permit Decision by adopting that decision in its entirety with the following additional findings, conclusions and conditions.

5. Proceedings

The Petitioner presented the Request for Special Permit at a duly noticed public hearing held on September 6, 2011 at 7:30PM. Upon assent of the Petitioner, the public hearing was continued to September 27, 2011 and was closed at the conclusion of the September 27, 2011 session. Board Members Kathleen A. Willis, Ernest E. Dodd, Leonard H. Golder, Stephen Quinn and Lori Clark were present throughout each of the hearing sessions. The record of proceeding and

submission upon which this decision is based may be referred to in the Office of the Town Clerk or the Office of the Planning Board.

6. Exhibits

Submitted for the Board's deliberation were the following exhibits:

EXHIBIT 1

1. Petition for Modification of Special Permit, dated August 2, 2011 from Bernard Donahue
2. Letter, dated April 15, 2011 from Bernard Donahue
3. Letter, dated July 28, 2011, from Bernard Donahue
4. Boat Rental Flyer, dated September 9, 2011 from Bernard Donahue

EXHIBIT 2 Comments received from other Town Boards and Committees:

1. Interoffice Memorandum, dated August 5, 2011, from the Stow Treasurer/Collector
2. Interoffice Memorandum, dated August 8, 2011, from the Stow Board of Health
3. Interoffice Memorandum, dated August 8, 2011, from the Stow Building Department
4. Interoffice Memorandum, dated August 11, 2011, from the Stow Assessors Office
5. Interoffice Memorandum, dated August 16, 2011, from the Conservation Commission
6. Interoffice Memorandum, dated September 6, 2011, from the Historical Commission
7. Letter, dated September 27, 2011, from the Stow Multi-Use Track Road Committee

EXHIBIT 3 Comments received from abutters:

1. Letter, dated September 6, 2011, from Alan and Beth DiPietro of 4 Riverside Park.
2. Email, dated September 26, 2011, from Assaboat@gmail.com

7. FINDINGS, Waivers and Conditions

Based upon its review of the exhibits and the record of the proceedings, the Board finds and concludes that:

7.1 **Finding** – The approval hereby granted is based on and specifically applies to a parcel of land located at Crow Island and Track Road, shown on the Stow Property Map Sheet R-23 as Parcel # 1, 3 and 4 and Map Sheet R-24, Parcel 1.

7.1 **Finding** - The Site is located in the Recreation-Conservation District. A portion of the property is located in the Floodplain/Wetlands Overlay District.

7.2 **Finding** - The proposed use is located entirely within the Recreation-Conservation District.

7.3 **Finding** - The Proposed Use (rental of canoes, kayaks and other non-motorized boats and other boating related equipment) is a permitted use in the Recreation-Conservation District under Section 3.1.2 of the Zoning Bylaw.

Finding – The Proposed Use (sales of canoes, kayaks and other non-motorized boats and other boating related equipment) is not allowed in the Recreation-Conservation District.

Condition – The use shall be limited to rental of canoes, kayaks and other non-motorized boats and other boating related equipment. Sales are prohibited.

7.4 **Finding** – The Original Special Permit, dated June 12, 1992 permitted commercial recreation uses, i.e., athletic events and stationary exhibit of automobiles and aircraft, limited to Saturdays, Sundays, legal holidays and Friday, July 3, 1992, unless otherwise authorized by the Planning Board, during the hours of 7:00 am to 8:00 pm.

7.5 **Finding** - The Petitioner requested a reduction in the application fee due to the non-complexity of the application.

The Board finds that the Special Permit Application fee in the amount of $500.00 is appropriate to cover the required administrative and advertising costs necessary to review the application and conduct the public hearing.

The Board **DENIES** the request for waiver for a reduction in the filing fee.

7.6 **Waiver** - The Board reviewed and considered the Application, as submitted and, except for the request for a reduction in the filing fee, accepts the application and supporting documentation as adequate for the type of Special Permit applied for.

7.7 **Finding** – The Petitioner stated that there will be no storage buildings for the proposed use. All safety equipment will be stored in tubs.

Condition – There shall be no storage buildings for the proposed use. If any additional buildings are proposed, the applicant shall seek modification to the Special Permit.

7.8 **Finding** – The Petitioner stated that all trash generated by rental customers will be removed daily, or as soon as possible.

Condition – All trash generated by rental customers shall be removed daily.

7.9 **Finding** – The Petitioner stated that boats will be cleaned before being used at Crow Island to prevent introduction of invasive plans and foreign material into the Assabet River.

Finding – The Stow Conservation Commission requires that all boats must be cleaned to prevent introduction of invasive aquatic species.

Condition – All boats shall be cleaned prior to being introduced or reintroduced into the Assabet River after being in another body of water.

7.10 **Finding** – During the Public Hearing, the Petitioner stated that all rentals will be by reservation only by internet or by telephone.

7.11 **Finding** – During the Public Hearing, the Petitioner estimated that no more than 20 cars would park on site at any given time, and that existing parking areas on Crow Island, as generally shown on the plan, will be used.

Finding - The Board finds that sufficient parking areas are provided on Crow Island for the proposed use.

Condition – Parking for boat rental customers shall be prohibited on Track Road.

7.12 **Finding** – The Petitioner stated that an adequate number of life jackets will be provided for each boater.

Condition – The Petitioner shall provide life jackets for each boater, as required by all local, state and federal regulations.

Condition – The petitioner shall provide adequate supervision to assure safe use of the boats.

7.13 **Finding** – The Stow Conservation Commission imposed a limitation of no more than 25 boats to be stored on site to prevent further impacts to the buffer zone.

Condition – No more than 25 boats shall be stored and rented on site.

Condition – The Board shall conduct an annual review to evaluate the boat rental operation to determine if there are any negative impacts.

7.14 **Finding** – During the Public Hearing, the Petitioner stated that he would operate during the months of May through September as early as 9AM and with the last boat back at 7PM.

Condition – Hours of operation shall be limited to the months of May through September, daily between the hours of 9:00 am to 7:00 pm. All boats shall be returned for storage on Crow Island during daylight hours.

7.15 **Finding** – The Board of Health stated concern about future planning of wastewater facilities on Crow Island.

Finding – During the Public Hearing, the Petitioner stated that the existing portable bathroom facilities, as shown on the plan, would be available for renters to use.

Condition –This approval shall not be deemed approval by the Board of Health, the Conservation Commission, or other authority having its separate jurisdiction and inspection requirements.

7.16 **Finding** – The Board of Assessors questioned whether the proposed use would add to the acreage that cannot be classified.

Condition - The Owner shall confer with the Board of Assessors to determine if the proposed use will neccessitate a change in the properties Chapter 61B Classification

7.17 **Finding** – The Petitioner stated that no boat maintenance of any kind will be conducted on Crow Island.

Condition – No boat maintenance of any kind shall be conducted on site.

7.18 **Finding** – During the Public Hearing, the Stow Multi-Use Track Road Committee raised questions about the additional traffic on Track Road and its impact to the Assabet River Rail Trail.

7.19 **Finding** – During the Public Hearing, the Multi-Use Track Road Committee stated that they feel non-motorized watercrafts are a positive use, for this portion of the Assabet River.

Finding - The Multi-Use Track Road Committee stated that the Town of Stow owns a permanent easement on Track Road to be used for the Assabet River Rail Trail. Track Road is currently used for bicycles, walkers, joggers, pets and horses, as well as motorized vehicles to and from Crow Island.

The Multi-Use Track Road Committee recommended restrictions on motorized vehicles traveling on Track Road to and from Crow Island in order to safeguard the cyclists, walkers, joggers, pets and horses, as follows:

- Driveway and time restrictions.

- Informational signage at the beginning of Track Road, placing emphasis on the fact that this is a recreational area used by many types of people and animals.
- Speed Limit Restriction to 10 mph.
- Signage for drivers to stop and yield to persons on foot, bike or wheel chair.
- Signage for drivers to stop and yield to animals.
- Parking Restrictions (time and location.)
- Reservation system for canoe/kayak rentals.

Condition – The proposed use shall not negatively impact the use of Track Road by bicycles, walkers, joggers, pets and horses for the Assabet River Rail Trail.

Condition - Advertising materials for the proposed use shall include notice that Track Road is a multi-use road used for bicycles, walkers, joggers, pets and horses, as well as motorized vehicles to and from Crow Island.

7.20 **Finding** – During the Public Hearing, the Petitioner stated he would have all renters enter through the White Pond Road gate entrance to avoid additional traffic on Track Road near Sudbury Road.

Condition – If advertising materials for the proposed use include directions to Crow Island, they shall indicate access from White Pond Road.

Finding – The Board finds that a speed limit of 10 mph on Track Road is appropriate for the existing and proposed uses.

Condition – Permanent all weather signs limiting speed to 10 mph shall be posted at the the White Pond Road and Sudbury Road entrances and two (2) additional signs along Track Road to be placed at reasonable intervals.

7.21 **Finding** – The Board finds that signage for drivers to stop and yield to animals or persons on foot; bike or wheel chair is appropriate for the existing and proposed uses.

Condition – Permanent all weather signs for drivers to stop and yield to animals or persons on foot, bike or wheel chair shall be posted at the the White Pond Road and Sudbury Road entrances and two (2) additional signs along Track Road to be placed at reasonable intervals.

7.22 **Finding** – The Board finds that there is no need for parking on Track Road, as adequate parking is available on Crow Island.

Condition: All parking for boat rentals shall be on Crow Island.

7.23 **Finding** – During the Public Hearing, Maynard residents and abutters to the Assabet River raised concern that this intensity of use on the Assabet River and commercialization will result in degradation and negative impact on current residents, plant, animal and humans.

7.24 **Finding** – The Board finds the proposed use, as conditioned herein is, will not impact the Assabet River or result in degradation and negative impact on current residents, plant, animal and humans.

7.25 **Finding** – During the Public Hearing, Maynard Residents and abutters raised questions about the impact of additional traffic along White Pond Road and suggested access from Sudbury Road.

Condition – The Petitioner shall provide adequate supervision to assure safe and orderly parking and safe and orderly ingress and egress of traffic from public ways.

7.26 **Condition:** This Special Permit Decision Modification No. 1 shall be considered a condition of, and an amendment and modification to the Original Special Permit for the purposes stated herein. Except as expressly modified by this Decision Modification No. 1, all terms and conditions of the Original Decision shall remain in full force and effect.

7.27 **Condition** - The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this decision, with or without a public hearing, upon the request of the Applicant or upon its own motion.

7.28 **Condition:** This Special Permit Modification No. 1 shall lapse in two (2) years from the date of the Original Decision (October 18, 2013), unless substantial use or construction has commenced.

7.29 **Condition:** The terms, conditions and provisions of this Decision shall run with the land and shall be binding upon the Petitioner, its successors in interest and assigns, and shall be enforceable by the Town of Stow.

7.30 **Condition:** This Special Permit Modification Decision No. 1 shall be recorded in the proper 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 Town Clerk and the Planning Board.

8. APPEALS

Appeals, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws, Chapter 40A and shall be filed within twenty (20) days after the date of filing this decision with the Town Clerk.

Witness our hands this 18th day of October 2011

Kathleen A. Willis

Kathleen A. Willis

Leonard H. Golder

Ernest E. Dodd

Lori Clark

Stephen Quinn

Received and Filed
Volume II, Page 566

Linda E. Hathaway

Linda Hathaway, Town Clerk

October 20, 2011

Date

This is to certify that the twenty (20) day appeal period on this decision has passed and there have been no appeals made to this office.

Linda Hathaway, Town Clerk

Date