

**BOARD OF SELECTMEN
APPLICATION FOR SPECIAL PERMIT
MARCH 3, 2008**

The public hearing was held in Stow Town Building and opened at 7:30 p.m. on the application filed by the **Stow Board of Selectmen, 380 Great Road, Stow** for Special Permit under Section 3.2.2.4 of the Zoning Bylaw, "Residential District Uses", to allow creation of a municipal recreational facility off **Old Bolton Road (Snow Property)**. The property contains approx. thirteen (13) acres and is shown on Stow Property Map R-3 as Parcel 18.

Board members present: John Clayton, Edmund Tarnuzzer, Michele Shoemaker, Charles Barney (associate), William Byron (associate).

Ms. Shoemaker chaired and read the notice of hearing as it had appeared in the *Beacon Villager* on February 14 and 21, 2008. The hearing notice had been forwarded to all abutters by certified mail, return receipt. Abutters present were Steven and Kirsten Mong, 70 Old Bolton Road; Leonard Golder, 67 Old Bolton Road; Leo Algeo, 75 Old Bolton Road; and Charles Stall representing Bose Corporation, 688 Great Road. Ms. Shoemaker recited the requirements for grant of special permit under Sections 9.2.6.3 through 9.2.6.11.

Representing the applicant were Robert Wilber, Eric Bachtell, Michael Busch and Timothy Allaire with Town Counsel Jonathan Witten. Mr. Wilber, also chair of the Conservation Preservation Committee, spoke to the application. A working group, under the direction of the Town Administrator, had been formed for the purpose of implementation of the Snow property. A special permit is being sought for the recreational use of a portion of the property, about seven acres. At the December 2007 special town meeting and subsequent special town election, the voters approved purchase of the property, after a previous attempt had failed. Mr. Wilber felt the project has now resolved to a better situation with the cost being reduced from \$1.3 million to \$1.2 million. Additionally, development costs have decreased from \$1.2 million to \$1.1 million. Voters at town meeting were concerned about the impact on real estate taxes, and that has been reduced from \$75 to \$25 annually. Two purposes of the Community Preservation Act will be met: recreation and agriculture. Abutting land is currently being used for agricultural purposes.

Eric Bachtell said there has been a study of the need over the past several years for playing fields within the town. There have been no new fields in over thirteen years, but enrollment in sports has increased as the population has grown. Stow residents play several sports in other towns. There is need for multiple playing fields for current and future growth in the western section of Stow. Six acres will be preserved for agriculture and possible future municipal use. The six acres are to be purchased without CPC funds as a hammerhead lot. There is no design plan in place currently but it is proposed there be a walking path, two fields for soccer and lacrosse, two 60-ft. baseball diamonds, basketball/tennis courts with ice rink overlay and a possible picnic pavilion. A conceptual plan for the seven acres with six-acre hammerhead lot to the rear had been submitted with the application.

Mr. Wilber felt the Snow property is suited for what is hoped to be accomplished. A title examination was completed with a clean title finding and no easements or rights by others. Title insurance was acquired. It is hoped to close on the property within the month. An RFP for professional services and construction is complete and ready to be issued. The working group is committed to doing this project right and for creating a property of which to be proud for years to come. It is acknowledged that site plan approval will be required from the Planning Board.

Ms. Shoemaker inquired into the closing date. Town Counsel Witten advised that the Purchase and Sale Agreement is in draft with a contingency for a ZBA special permit and no appeal of that favorable decision.

Mr. Tarnuzzer pointed out the mandatory requirements for special permit under Section 9.2.6 and asked on what is this board to rule. Mr. Witten noted there are two conflicting sections of the bylaw. Section 9.9 exempts any municipal purpose, with the exception of a refuse disposal area, from any district. Section 3.2.2.4 requires a special permit for a non-commercial municipal park. He suggested that the two sections be read in harmony. ZBA powers are slightly limited. The use as a recreational facility could be conditioned on site plan review by the Planning Board and that mandatory requirements be sufficiently met. Details on the level of service are unknown at this time. The ZBA could approve the use only subject to the findings of the Planning Board in site plan review. Another option would be to conclude that Section 9.9 controls and no special permit is required. Either option requires site plan review by the Planning Board.

Mr. Clayton inquired that if the ZBA finds for mandatory requirements could there be a time period for those conditions to be met. Mr. Witten replied there could but that a sufficient period should be allowed for response to the RFP. As to proof of conformance of any conditions, Mr. Witten suggested that if a level of service cannot be met, then the project would have to be scaled back.

Mr. Clayton expressed his concern that Section 9.9 states that "nothing in this Bylaw shall be construed to limit or prohibit the use of land in any districtfor any municipal purpose with exception of a refuse disposal area". His interpretation is that the word "nothing" erases other sections of the bylaw. Mr. Witten advised that the application was made so there will be no interpretation by the public that the zoning bylaw was being skirted. If it is the decision of the ZBA that a special permit is not required, then the project would advance to the Planning Board.

Abutter Leonard Golder noted that requirements of site plan approval will include such items as drainage, lighting, parking, waste disposal, etc. This is a small amount of land and the level of use will have to be limited. There are issues of grave concern.

Ernest Dodd of the Planning Board noted concern about expansion of the Bose well site and a possible agreement if the Zone One will extend over the mutual property line. Many of the questions being raised will be addressed by the Planning Board.

Mr. Allaire said that all applicable bylaws will be reviewed by the consultant and taken into account. The group will be moving toward a more detailed site plan to be presented to the Planning Board. There is a master plan that includes as much information as possible to this point. A review of the property was presented to the Selectmen two years ago.

Mr. Golder noted that parking is a major issue with regard to impact on abutting properties and the number of vehicles to be handled. Mr. Mong said he was comfortable that the Planning Board will have site plan approval.

Mr. Byron noted this project will be within the residential district and abutting properties should be protected. How will baseballs be prevented from going onto those properties? Mr. Wilber acknowledged that impact on neighbors is a serious concern. There are stone walls around the property, but there is need for sound barrier vegetative screening or fencing and to prevent vehicles from accessing the fields. That will depend on the orientation of the playing fields and their purposes. There is no intention for night time lighting, even for ice skating.

Mr. Byron inquired into water supply and treatment facilities. Mr. Bachtell responded there are no plans for a public water supply. Portable toilets will be provided for seasonal use. There will be a well for irrigation.

Mr. Clayton asked if a special permit expiration date in September would be acceptable. Mr. Dodd advised that considering the Planning Board time frames for site plan approval, an expiration date at the end of this year would be more realistic. It was noted that the site plan approval process may require certain waivers or variances from the zoning bylaw as might regard setbacks, etc. A comment was made that traffic volume was one reason Bose created a Great Road access rather than using that off Old Bolton Road.

Kathy Sferra of the Conservation Commission spoke in favor of the project and urged that a special permit be granted or a finding that Section 9.9 applies.

The hearing was closed at 8:36 p.m.

Respectfully submitted,
Catherine A. Desmond
Secretary to the Board