



TOWN OF BOW

Zoning Board of Adjustment

10 Grandview Road, Bow, New Hampshire 03304

Phone (603) 223-3970 | Fax (603) 225-2982 | Website www.bownh.gov

APPROVED MINUTES

February 21, 2023

The Town of Bow Zoning Board of Adjustment met on Tuesday, February 21, 2023 at 7:30 PM in Room C of the Town Municipal Building, 10 Grandview Rd, Bow, NH.

7:30 PM ROLL CALL

Chair Hadaway called the meeting to order with a roll call introduction of the Board members.

Present were Harry Hadaway, Chairman; Stephen Buckley, Vice chair; Donald Burns, Secretary (via Zoom); Michael O'Neil, member; June Branscom, alternate member. Also present was Karri Makinen, Community Development Director. Joseph Conti, alternate member, was at the site walk but absent from this meeting.

Stephen Buckley handed Community Development Director Makinen notes taken at the site walks to make a part of this record.

Mr. Burns stated it was not practical for him to attend meetings in person due to his wife's medical condition and would like to have permission to attend meetings remotely. Mr. Hadaway requested that someone entertain a motion to allow Mr. Burns to participate in meetings remotely as it is not practical for Mr. Burns to attend due to his wife's medical condition according to RSA 91-A:2, III.

Steve Buckley made a motion and Mr. O'Neil duly seconded to allow Mr. Burns to participate remotely due to his wife's medical condition for Zoning Board of Adjustment meetings in accordance with RSA 22 91-A:2, III.

Mr. Hadaway proceeded with a roll call vote: Chair Hadaway – aye; Mr. Buckley – aye; Mr. O'Neil – aye; Mrs. Branscom – aye; The motion passed with a 4 ayes-1 abstention vote.

Mr. Hadaway confirmed that Mr. Burns had no one in the room with him. Because there is a member attending remotely, the Board must do roll call votes for all matters tonight. Chairman Hadaway stated that all attending members would be voting.

I. PUBLIC HEARINGS

1. Application no. 101-23 Charles Sargent, Variance Application The applicant requests a variance for 147.92' of frontage where 200' is required for one of three 2+-acre lots proposed for the subdivision of an existing 8.9-acre parcel. Located at: 14 Birchdale Road, Bow, NH 03304, Map 9/Block 4/Lot 53

Chair Hadaway stated he had a request from the applicant to continue the application to the next ZBA meeting in March. Since this was a last-minute request, Chair Hadaway asked if there were members of the public wishing to speak and opened the public hearing at 7:32 PM. Chair Hadaway clarified for the one member of the public that they were discussing the plot on Birchdale Road, not Baker Road.

Chair Hadaway closed the public hearing at 7:33 PM and entertained a motion for continuance. Mr. Buckley made a motion for continuance but referred to a memo from Aries Engineering which indicated they wanted the continuance in hopes outstanding issues will be resolved. Further Mr. Buckley stated it appears they are not certain the issues will be resolved.

Mr. Buckley moved to approve a continuance of Application no. 101-23 to the March ZBA meeting with the understanding that the applicant will renotify the abutters of the meeting. Mr. O'Neil seconded the motion.

Mr. Hadaway proceeded with a roll call vote: Mr. Buckley – aye, Mr. O'Neil – aye, Mrs. Branscom – aye, Mr. Burns – aye, Mr. Hadaway – aye. The motion passed with a 5-0 vote.

2. Application no. 102-23 Amber Bow Associates, LLC, Special Exception Application
Proposed Use: Alta Equipment Group: Forklift & material handling equipment sales, rental, parts & service. Details of Request: (G.3.) A Special Exception is requested to allow "**motor vehicle repairs and maintenance**" at the proposed new building. Located at: 85 Dow Road, Bow, NH 03304, Map 25/Block 5/Lot 42
3. Application no. 103-23 Amber Bow Associates, LLC, Special Exception Application
Proposed Use: Alta Equipment Group: Forklift & material handling equipment sales, rental, parts & service. Details of Request: (G.2.) A Special Exception is requested to allow the "**sale and installation of parts**" at the proposed new building. Located at: 85 Dow Road, Bow NH 03304, Map 25/Block 5/ Lot 42.
4. Application no. 104-23 Amber Bow Associates, LLC, Special Exception Application
Proposed Use: Alta Equipment Group: Forklift & material handling equipment sales, rental, parts & service. Details of Request: (G.1.) A Special Exception is requested to allow "**motor vehicle sales and rentals**" at the proposed new building. Located at: 85 Dow Road, Bow, NH 03304, Map 5/Block 5/Lot 42

Chair Hadaway introduced three applications from Amber Bow Associates, LLC, Application no. 102-23; Application no. 103-23; and Application no. 104-23. All applications request Special Exceptions: #102-23 to allow motor vehicle repairs and maintenance; #103-23 to allow the sale and installation of parts; and #104-23 to allow motor vehicle sales and rentals at the proposed new building.

Tim Bernier, T.F. Bernier Inc., gave a brief overview. Granite State Industrial Center is an industrial park that is currently under construction and previously approved by the Planning Board. This proposal concerns one tenant at 85 Dow Road which is Alta Equipment Group. Mr. Bernier said there were a lot of pointed questions on the site walk indicating areas of concern. To better address those questions, representatives from Alta Equipment Group are present to speak to their special exception applications.

Alta Equipment Group representatives present include: Rick Papalia, Executive Vice President of Alta New England; Kevin Blacker, Operations Manager of the Concord facility; Ed Hoyt, Regional Environmental Health and Safety Manager; and Christine Miller, Director of Safety.

The Board was concerned, among other things, about the amount and type of traffic the business would generate; outdoor storage of equipment; and environmental concerns with storage of waste materials.

Mr. Papalia clarified they were not selling construction equipment but rather forklifts and/or material handling equipment. The construction component of the business is staying on Hall Street with the material handling portion moving to the industrial park. Further, selling forklifts is not like a car dealership where customers regularly go to look at and pick out a vehicle. They have a parts department and a service department but most of their work is done in the field. All equipment is stored inside the building. As to the type and weight of vehicles, they work out of 1 ½ ton regular service vans. They have a couple of 550 crane trucks for heavier work. They don't have their own delivery trucks and contract that out. Delivery trucks could be daily. Tractor-trailer trucks for deliveries from the factory usually occur a couple times a month. Mr. Bernier stated that as far as large trucks are concerned, they would probably have less than what is already permitted for the site.

Mr. Papalia explained that most of their facilities had waste oil burners because they generate waste oil by changing the oil in forklifts. The technicians bring the oil back to the facility which is stored in a 500-gallon tank, and they burn it to generate heat for their "shop". Currently Concord does not have a waste burner. They are classified as a waste generator. It's their intention to get a waste burner when they move into the new space and get classified as a waste recycler. When they do store anti-freeze and batteries on the site, they are in spill proof containers by regulation and are stored in the building.

Chair Hadaway opened the Public Hearing at 7:58 PM and asked if anyone wished to speak. Gabriel Szczepanik, 63 Knox Road, owns the property directly behind this facility, that they use for snowshoeing, cross-country skiing etc. He has some concerns about noise, nights and weekends, excessive amounts of lights, and sounds of back-up beepers. He is also concerned about the indoor storage and said he didn't want this property to look like Alta's Hall Street property. He asked about limiting the hours of operation and what would happen with the special exceptions if another company should purchase and move into the property. Mr. Szczepanik asked if the Board does grant the exception that they put some sort of caveats on it to protect the community. There was some discussion about the topography of the abutter's property in relation to Alta's warehouse.

Mr. Papalia, responding to the abutter's concerns, stated that their normal business hours are Monday through Friday 7:00 AM to 5:00 PM and they typically do not work weekends. There may be instances where there might be an emergency repair or the like where they might have to work later or during the weekend. Most of their shop technicians are on the road working out of their vans. There are only 4 – 5 bays in the building. They do have outdoor security lighting like that on Hall Street. Because they don't plan to have anything stored outside of the new facility, there would be limited lights over the doors for personnel and wouldn't have to light up the whole parking lot.

Operations Manager Kevin Blacker verified that it is rare that there would be any work on site during the weekend or after hours. Service Technicians take their van home at night. If they have a spare van for breakdowns it is brought into the building at night and not stored outside. Mr. Bernier noted that the industrial park project was previously approved by the Planning Board, including the light plan which was designed by a lighting engineer. Alta is not proposing anything new on the building. The exceptions are for use of the building. Mr. Szczepanik clarified that he wasn't asking Alta not to conduct business on the site but to have stated normal business hours and limit operations outside of those in order to limit the impact on his property.

Chair Hadaway asked if there was anyone else wishing to speak. Abutter R.J. Lamy (owner of lot 47-A on Baker Road) recently bought his property so he wasn't a part of the process of approving the industrial park project. Chair Hadaway clarified the public hearing is for the exceptions for the *use* of the building only and not the industrial park project itself. Mr. Lamy asked if the exception ran with the land or the tenant. Mr. Buckley clarified the law states the exception runs with the land. Mr. Lamy had concerns about the future uses of the property if Alta leaves, the effect of heavy trucks on the road, hours of

operation and noise. It was noted that the Town has ordinances governing businesses' hours of operations and noise.

Community Development Director Makinen remarked that the project has already been approved for warehouse storage and this hearing was only to discuss the changes that would allow them to *use* the existing building already approved for warehouse and storage use. Discussion continued for some time with Mr. Lamy urging the Board not to approve the special exceptions. Chair Hadaway asked if any others wished to speak. Seeing none, he closed the public hearing at 8:38 PM and opened it up for Board discussion.

Mr. Bernier reviewed and answered all the criteria required for approval of a Special Exception in relation to the uses proposed. Chair Hadaway reopened the public hearing to hear Mr. Lamy's objection to the waste oil burner use. The public hearing was closed immediately after. Mr. Burns proposed some conditions to the special exception approval to address abutters' concerns. There was some back-and-forth discussion regarding the wording around hours of operation.

Each application for special application will be taken up separately and voted upon separately instead of as a group.

Mr. Hadaway went through the criteria for Board approval.

Application no. 102-23 review of Special Exception Criteria:

Member	A	B	C	D	E	F	G	H
Stephen Buckley	met	met	met	met	n/a	met	met	met
Michael O'Neil	met	met	met	met	n/a	met	met	met
June Branscom	met	met	met	met	n/a	met	met	met
Donald Burns	met	met	met	met	n/a	met	met	met
Harry Hadaway	met	met	met	met	n/a	met	met	met

Application no. 103-23 review of Special Exception Criteria:

Member	A	B	C	D	E	F	G	H
Stephen Buckley	met	met	met	met	n/a	met	met	met
Michael O'Neil	met	met	met	met	n/a	met	met	met
June Branscom	met	met	met	met	n/a	met	met	met
Donald Burns	met	met	met	met	n/a	met	met	met
Harry Hadaway	met	met	met	met	n/a	met	met	met

Application no. 104-23 review of Special Exception Criteria:

Member	A	B	C	D	E	F	G	H
Stephen Buckley	met	met	met	met	n/a	met	met	met
Michael O'Neil	met	met	met	met	n/a	met	met	met
June Branscom	met	met	met	met	n/a	met	met	met

Donald Burns	met	met	met	met	n/a	met	met	met
Harry Hadaway	met	met	met	met	n/a	met	met	met

Mr. Buckley moved and Mrs. Branscom seconded that the Board grants Special Exception application #102-23 for Amber Bow Associates, LLC under Article 5, Table of Use Regulations, 5.11, Section G.3 to permit motor vehicle repairs and maintenance at 85 Dow Road, Map 25, Block 5, Lot 42 as set forth in the application, subject to the following conditions:

- 1. The scope of activities will be limited to the repair and maintenance of material handling equipment as set forth in the application.*
- 2. There will be no retail storefront, however there will be some retail activity by appointment only.*
- 3. There will be no outdoor storage of material and equipment, however there would be occasional and incidental outdoor storage.*
- 4. The business will have hours of operation between 6:30 AM and 7:30 PM Monday through Friday, with occasional deliveries after hours and on weekends.*
- 5. The operation will comply with all federal, state, and local hazardous waste management regulations, rules, and statutes.*

Findings of Fact

- 1. The underlying warehouse use was already approved by the Planning Board for the Site Plan.*
- 2. The use already has an Alteration of Terrain permit to help protect from the runoff of surface waters.*
- 3. As indicated by the applicant, this is not an activity that will have on-site industrial manufacturing that could cause more severe off-site effects.*
- 4. Truck traffic is limited to exiting and turning right onto Dow Road to Route 3A, which will minimize the impact of the truck traffic on the rest of the town.*

Mr. Hadaway proceeded with a roll call vote: Mr. Buckley – aye, Mr. O’Neil – aye, Mrs. Branscom – aye, Mr. Burns – aye, Mr. Hadaway – aye. The motion passed with a 5-0 vote.

Mr. Buckley moved and Mrs. Branscom seconded that the Board grants Special Exception application #103-23 for Amber Bow Associates, LLC under Article 5, Table of Use Regulations, 5.11, Section G.2 to permit sale and installation of vehicle parts and accessories at 85 Dow Road, Map 25, Block 5, Lot 42 as set forth in the application, subject to the following conditions:

- 1. The scope of activities will be limited to the sale and installation of parts for material handling equipment as set forth in the application.*
- 2. There will be no retail storefront, however there will be some retail activity by appointment only.*
- 3. There will be no outdoor storage of material and equipment, however there would be occasional and incidental outdoor storage.*
- 4. The business will have hours of operation between 6:30 AM and 7:30 PM Monday through Friday, with occasional deliveries after hours and on weekends.*
- 5. The operation will comply with all federal, state, and local hazardous waste management regulations, rules, and statutes.*

Findings of Fact

- 1. The underlying warehouse use was already approved by the Planning Board with the Site Plan.*
- 2. The use already has an Alteration of Terrain permit to help protect from the runoff of surface waters.*

3. *As indicated by the applicant, this is not an activity that will have on-site industrial manufacturing that could cause more severe off-site effects.*
4. *Truck traffic is limited to exiting and turning right onto Dow Road to Route 3A, which will minimize the impact of the truck traffic on the rest of the town.*

Mr. Hadaway proceeded with a roll call vote: Mr. Buckley – aye, Mr. O’Neil – aye, Mrs. Branscom – aye, Mr. Burns – aye, Mr. Hadaway – aye. The motion passed with a 5-0 vote.

Mr. Buckley moved and Mrs. Branscom seconded that the Board grants Special Exception application #104-23 for Amber Bow Associates, LLC under Article 5, Table of Use Regulations, 5.11, Section G.1 to permit motor vehicle sales and rentals at 85 Dow Road, Map 25, Block 5, Lot 42 as set forth in the application, subject to the following conditions:

1. *The scope of activities will be limited to the sales and rentals of material handling equipment as set forth in the application.*
2. *There will be no retail storefront, however there will be some retail activity by appointment only.*
3. *There will be no outdoor storage of material and equipment, however there would be occasional and incidental outdoor storage.*
4. *The business will have hours of operation between 6:30 AM and 7:30 PM Monday through Friday, with occasional deliveries after hours and on weekends.*
5. *The operation will comply with all federal, state, and local hazardous waste management regulations, rules, and statutes.*

Findings of Fact

1. *The underlying warehouse use was already approved by the Planning Board with the Site Plan.*
2. *The use already has an Alteration of Terrain permit to help protect from the runoff of surface waters.*
3. *As indicated by the applicant, this is not an activity that will have on-site industrial manufacturing that could cause more severe off-site effects.*
4. *Truck traffic is limited to exiting and turning right onto Dow Road to Route 3A, which will minimize the impact of the truck traffic on the rest of the town.*

Mr. Hadaway proceeded with a roll call vote: Mr. Buckley – aye, Mr. O’Neil – aye, Mrs. Branscom – aye, Mr. Burns – aye, Mr. Hadaway – aye. The motion passed with a 5-0 vote.

II. NEW BUSINESS

Approval of 2023 Zoning Board of Adjustment Meeting Schedule

Mr. Buckley moved to approve the 2023 Zoning Board of Adjustment meeting schedule as presented. Mrs. Branscom seconded. After some discussion, Mr. Buckley amended his motion to make the start time 7:00 PM instead of 7:30 PM. The seconder agreed to the amendment.

Mr. Hadaway proceeded with a roll call vote: Mr. Buckley – aye, Mr. O’Neil – aye, Mrs. Branscom – aye, Mr. Burns – aye, Mr. Hadaway – aye. The motion passed with a 5-0 vote

III. REVIEW OF MINUTES: 12/20/2022

Mr. Hadaway asked if there were any corrections to the December 20, 2022 regular meeting minutes. The Board discussed edits to the minutes.

Mr. Buckley made a motion and Mr. O'Neil duly seconded to approve the edited December 20, 2022 regular meeting minutes.

Mr. Hadaway proceeded with a roll call vote: Mr. Buckley – aye, Mr. O'Neil – aye, Mrs. Branscom – aye, Mr. Burns – aye, Mr. Hadaway – aye. The motion passed with a 5-0 vote

IV. ADJOURN

*Mr. Buckley motioned to adjourn the meeting. Mrs. Branscom duly seconded.
Meeting adjourned at 9:27 PM.*

Respectfully Submitted,

Wendy Gilman, Recording Secretary