



Town of Uxbridge  
**Zoning Board of Appeals**  
21 So. Main St.  
Uxbridge, MA 01569  
(508) 278.6487

Minutes of the Uxbridge Zoning Board of Appeals held on **Wednesday, March 5, 2008** at 7:00 P.M. in the Lower Town Hall, Uxbridge Town Hall, 21 So. Main St., Uxbridge, MA:

Zoning Board of Appeals Members Present: **Chairman Mark Wickstrom, Thomas Bentley, Bruce Desilets and Associate Member Charles Lutton**

Zoning Board of Appeals Members Absent: **none**

Others Present: **Megan T. DiPrete, Director of Planning and Economic Development and Tracey Ante, Administrative Assistant**

The meeting being duly called, properly posted and a quorum being present, Chairman Mark Wickstrom convened the meeting at 7:00 PM and led the gathering in the Pledge of Allegiance.

**FY 08-27:** The applicant / owner of record Amy and Gary Walker are seeking a Variance from the Zoning By-laws on property located 18 Crestview Drive, Uxbridge, MA shown on the Town of Uxbridge Assessor's Map 12B, Parcel 3962 and recorded in the Worcester County District Registry of Deeds Book 27598, Page 047 located in Residential B Zoning District to construct a 900 square foot addition. The lot lacks the required frontage of 185 feet. The plot plan shows 165.92 feet; there is a shortage of 19.8 feet. The lot is otherwise conforming.

The Chairman opened the public hearing. Mr. Walker was present and discussed the proposed addition. Following public input, **MOTION** by Mr. Bentley to close the public hearing. Seconded by Mr. Desilets, the motion carried unanimously.

**MOTION** by Mr. Bentley to convert the application to a Finding pursuant to MGL Chapter 40A Section 6, approving the proposed addition upon a finding that the application is not detrimental or injurious to the neighborhood. This is based in part on the testimony indicating that the property is served by municipal water and municipal sewer, that the addition will not include a kitchen, and that the bedroom in the addition will not be subsequently rented out. Seconded by Mr. Desilets, the motion carried unanimously.

**FY 08-16, public hearing continued:** Mr. Richard Hurteau / 0 Quaker Street. The applicant seeks a frontage variance to allow various development, particularly agricultural uses, on property which has no frontage in the Town of Uxbridge.

Mr. Bentley disclosed a conflict of interest and recused himself from the board. The Chairman re-opened the public hearing. Ms. DiPrete reviewed the material in the file and the questions relative to the application for a frontage variance. Mr. Hurteau was present and indicated to the board that access to the development in Uxbridge would likely be through "lot 8" of Millville Assessor's Map 125. Mr. James Hull, Chairman on the Millville Planning Board, was also present and indicated that he appreciated and encouraged the ongoing dialogue between the towns. **MOTION** by Mr. Desilets to close the public hearing. Seconded by Mr. Lutton, the motion carried unanimously.

Mr. Bentley returned to the board.

**FY 08-28:** The applicant / owner of record Robert Stearns / Allen Davey / d/b/a Karcraft, Inc. are seeking a Special Permit from the Zoning By-laws on property located at 709 Quaker Highway, Uxbridge, MA shown on Assessors Map 45, Parcel 4846 and recorded in the Worcester County District Registry of Deeds Book 16173, Page 243 located in the Industrial Zoning District to allow up to 50 vehicles to be kept on the property (up to 20 vehicles for sale, up to 20 vehicles for automotive repair and up to 10 vehicles for towing and storage on the property).

Ms. DiPrete summarized that although many specific uses are mentioned in the applicant's submittal materials, the application seeks approval to have up to 50 motor vehicles on the site, pursuant to Article VII E 1 and Article VII D 8 d, requiring a special permit from the Zoning Board of Appeals for commercial storage and maintenance of more than 3 passenger vehicles. Mr. Mark Stacy represented the applicant and described the proposal. Applicant Mr. Davey was also present to answer questions. There are 3 employees, including himself. In recent months, there were often 50 vehicles on the property. In recent weeks, that has been reduced to approximately 20, pending the outcome of the application.

Following public input, **MOTION** by Mr. Bentley to close the public hearing. Seconded by Mr. Desilets, the motion carried unanimously. **MOTION** by Mr. Bentley to make a finding that the proposal is not injurious or offensive to the neighborhood and therefore approve the request under Articles VII E 1 and VII D 8 d of the Zoning Bylaws to allow up to 50 vehicles on the site. Seconded by Mr. Desilets, the motion carried unanimously.

**FY 08-29:** The applicant / owner of record Bob Mellen / Dorothy Derby have filed an Appeal of Decision from the Building / Zoning Inspector. The applicant seeks to establish the 3-family dwelling on property at 230 Mendon Street, Uxbridge, MA shown on Assessors Map 19, Parcel 3054 and recorded in the Worcester County District Registry of Deeds Book 21252, Page 124 located in the Residential B Zoning District as a lawfully existing structure/use.

The Chairman opened the public hearing. Applicant Mr. Mellen presented the request to determine that the property at 230 Mendon Street is lawfully existing as a legal, non-conforming 3-family dwelling structure, and the lawfully existing non-conforming use has been in continuous existence.

Several members of the public testified to the fact that the structure was established as a 3-family structure prior to 1967, when the Zoning Bylaws were amended and limited the number of dwelling units on a lot in the Residence B zone to only two. During testimony, it was unclear whether a kitchen in one "apartment" (over the "carriage house") had been removed by Ms. Derby and/or her son, in 1999.

**MOTION** by Mr. Desilets to schedule a site visit, and continue the public hearing to the next meeting, on April 2, 2008. Seconded by Mr. Bentley, the motion carried unanimously.

**FY 08-16: Deliberation.** Mr. Bentley once again recused himself. Following discussion, **MOTION** by Mr. Lutton to render a Finding and Decision, that the proposal for development of property shown as Uxbridge Assessor's Map 51 Lot 2341, to the extent that it qualifies for an "agricultural exemption" pursuant to state law is approved as it is an accessory use to a lawful primary use on property owned by the applicant and identified as Millville Assessor's Map 125, Lot 14, 70 Quaker Street. Access to the proposed structure will be from Quaker Street, and is

not intended to be through Assessor's Map 125 Lot 8 (in Millville). Any structure supporting the agricultural use would be located entirely within the Town of Uxbridge. Seconded by Mr. Desilets, the motion carried unanimously (3 – 0).

Mr. Bentley returned to the board.

**FY 08-26:** The applicant / owner of record Scotland Yard Limited Liability Partnership is seeking an Appeal of Decision by a town official that Common Driveways are not permitted in Uxbridge on property located 165 Crownshield Avenue, Uxbridge, MA shown on the Town of Uxbridge Assessor's Map 29, Parcel 2965 and 2999 and recorded in the Worcester County District Registry of Deeds Book 18515, page 241 located in Residential A zoning district. The Building Inspector / Zoning Inspector declined to issue a building permit based on his determination that the Zoning Bylaws do not permit the use of Common Drives. Several abutters (all owners of condominium units on the adjacent lot, through which the common driveway would travel) were present and indicated they had not received notice of the public hearing. **MOTION** by Mr. Bentley to re-open the public hearing. Seconded by Mr. Desilets, the motion carried unanimously. Additional input was received urging the Board to uphold the Building Inspector's determination.

Mr. Roelofs, representing the applicant, urged the Board to consider issuance of "interpretive guidance" with their decision so as to guide future activity. The Board indicated that there is a proposal anticipated for Spring Town Meeting that would amend the zoning bylaws by providing a Driveway Bylaw and authorize the use of Common Driveways in some cases.

The board discussed the following facts:

1. The Board reviewed a plan submitted by the Petitioner showing Lot 1A on the corner of Cotton Mill Road and Crownshield Road and Lot 1B fronting on Crownshield.
2. Both Lot 1A and Lot 1B are located in the Residence A zone.
3. Lot 1B is adjacent to and borders Lot 1A.
4. Lot 1A currently contains a multi-unit (8 units total) residential apartment building which is served by a driveway that commences on Cotton Mill Way and runs to both the front and the rear of the building. This driveway is located completely within the boundaries of Lot 1A.
5. Lot 1B shows a proposed 8-plex residential apartment building. Each of the eight units has its own garage and one parking area in front of each unit. The four units closest to Crownshield Road are to be served by one driveway located entirely on Lot 1B that exits directly onto Crownshield Road. The remaining four units' garages and parking areas are accessed only by crossing over a driveway located on Lot 1A (as a "common driveway").
6. The common driveway as proposed would provide access to and from a road different than the road providing frontage to the lot containing the dwelling structure. As such, the four (4) "rear" units would be accessed off Cotton Mill Road even though Lot 1B has no frontage on Cotton Mill Road.
7. There is no guest parking provided on either Lot 1A or Lot 1B; guests must park along the edge of the driveway which is approximately 15 feet wide.

8. The existing eight units on Lot 1A have been converted to a condominium-style of ownership and sold. No proposed easement or right-of-way or other agreement showing the rights of the existing unit owners was presented to the Board. Four (4) of the Lot 1A unit owners were present at the hearing of this matter and expressed their opposition to the driveway going over their land.

The board received the following submittals:

Application form and exhibits received and reviewed by the Board in this matter:

1. Zoning Board of Appeals Application for Hearing, Check List, and copy of \$300 filing fee check;
2. Copy of Appealed Decision: Building Inspector Gazerro's letter to Scotland Yard dated December 6, 2007 denying its building permit application;
3. Copy of December 21, 2007 Request for Abutters List and Copy of Abutters List Report provided by the Assessor's Office;
4. Detailed property information, including (a) Maps Online printout depicting subject parcel (Lot 2695) and
5. abutting parcel (Lot 2999), (b) Property Record Card, (c) deed, and (d) Zoning Map;
6. Copy of letter from Law Offices of Jeffrey L. Roelofs, P.C. to Building Inspector Gazerro dated October 26, 2007 – discussing the zoning freeze that applies to the land at issue in the appeal;
7. Copy of letter from Town's Attorney, Patrick Costello, dated November 21, 2007;
8. 11' x 17' reduced copy of Site Plan entitled "Site Plan, Ledgemere Country V, Lot 1V, Uxbridge, Massachusetts," dated September 20, 2007, depicting existing parcel and proposal;
9. Site Plan entitled "Site Plan Ledgemere Country V, Lot 1B, Uxbridge, Massachusetts," dated September 20, 2007 – with original Land Surveyor and Professional Engineer stamps within the original package to Board and remaining packages containing copies;
10. Detailed plans depicting elevation and other details of the proposed 8-plex building, revised through October 26, 2007 (Sheets A1-A6, A5B, A6B, A5C, AC6, A7-A13, S1-S10, D1-D4);
11. Letter from Attorney Jeffrey Roelofs to Town Clerk and ZBA dated January 4, 2008;
12. Correspondence from Attorney Jeffrey Roelofs to the ZBA dated February 6, 2008; and
13. Petition from residents of the Fafard Cotton Mill Condominiums to the ZBA dated March 5, 2008

Interdepartmental correspondence was received and reviewed as follows:

- correspondence from the ZBA Clerk to ZBA, dated March 5, 2008;
- correspondence from Director of P&ED to the Building Inspector, dated January 8, 2008

Following discussion and input, **MOTION** by Mr. Bentley to close the public hearing.

Seconded by Mr. Desilets, the motion carried unanimously.

**MOTION** by Mr. Bentley to uphold the Building Inspector's determination that Common Driveways are not permitted by the Uxbridge Zoning Bylaws. Seconded by Mr. Desilets, the motion carried unanimously.

**Zoning Bylaw Recodification Effort.** Ms. DiPrete distributed updated materials for the Zoning Bylaw Recodification Workshop scheduled for March 10, 2008.

**Meeting Minutes**

**3/5/08**

**MOTION** by Mr. Bentley to approve the February 6, 2008 Meeting Minutes. Seconded by Mr. Desilets, the motion carried unanimously.

**MOTION** by Mr. Desilets to adjourn the meeting at 9:40 P.M. Seconded by Mr. Bentley, the motion carried unanimously.

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Mark Wickstrom, Chairman

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Thomas Bentley

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Bruce Desilets

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Charles Lutton, Associate Member

Date \_\_\_\_\_