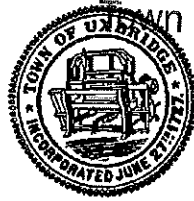


Rob Knapik, Member  
John Gniadek, Member  
Mark Kaferlein, Member  
Thomas McNulty, Member



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## **DECISION**

**ZBA Case#:** FY18-09

**Zone:** Business

**Property Owner:** CA Calderon Landscaping, Inc.

**Property Address:** 426 Douglas Street

**Assessor's Reference Map:** 23 **Parcel:** 3743

**Worcester District Registry of Deeds References:** Book: 52430 Page: 180

### **SPECIAL PERMIT GRANTED with Conditions**

**Decision Date:** July 9, 2018

**BACKGROUND:** CA Calderon Landscaping, Inc., Owner, and Northeast Venture Group & Realty, Applicant, are seeking a **SPECIAL PERMIT** to reestablish a nonconforming use or structure where such reestablishment shall not cause substantial detriment to the community under Uxbridge Zoning Bylaws Section 400-12 F. The dwelling has been uninhabited for greater than two years and was formerly a residential use in a residential zone.

**VOTING MEMBERS:** Rob Knapik, John Gniadek, and Mark Kaferlein.

**SUBMITTALS:** Zoning Board of Appeals Application, Certified Abutters List, a ZBA Plan for 426 Douglas Street prepared by Andrews Survey and Engineering dated 6/12/19, and a Plan of Land dated 12/22/1993.

**PRESENTATION / DELIBERATIONS / FINDINGS OF FACT:** The public hearing was opened and closed on July 9, 2018.

Byron Andrews, Andrews Survey and Engineering, on behalf of the Applicant, presented the proposal for Northeast Venture Group & Realty to construct a new single-family house within the existing setbacks on the Property. The new structure is replacing an existing dwelling abandoned several years ago and beyond repair. All the abutting properties are of residential use and the Property abuts Agricultural zoned properties. The proposed house will utilize town water and sewer.

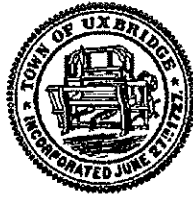
Larry Lench, the building inspector, provided considerations and was in favor of the project stating it was the best use for the Property and, had the two-year time period not lapsed, he could have issued a building permit without the need for a Special Permit. An abutter was in attendance and also concurred that a residence is preferred over a business and that a prior petition for business use on this lot was denied.

The board reviewed the standard under Uxbridge Zoning By-Law Section 400-12 F:

*400-12 F. Abandonment or Non-Use A nonconforming use or structure which has been abandoned or not used for a period of two (2) years shall lose its protected status and be subject to all of the provisions of these Bylaws; provided, however, that, by issuance of a special permit, the Board of Appeals may reestablish such nonconforming use or structure where such reestablishment shall not cause substantial detriment to the community.*

The Board found that the Applicant demonstrated that reestablishing residential use of the Property would not only not cause substantial detriment, but would cause no detriment at all and would actually be an asset to the

Rob Knapik, Member  
John Gniadek, Member  
Mark Kaferlein, Member  
Thomas McNulty, Associate Member



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## **DECISION**

**ZBA Case#:** FY18-09

**Zone:** Business

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**Property Address:** 426 Douglas Street

**Assessor's Reference:** Map 23, Parcel: 3743

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community. There was also a discussion and agreement with the Property Owner on special conditions to the permit.

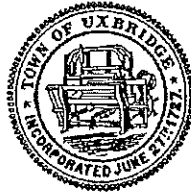
**MOTION / VOTE:** Mr. McNulty made a **MOTION** to close Public Hearing FY18-09 for 426 Douglas Street. **MOTION SECONDED** by Mr. Kaferlein passed unanimously by vote of 3-0-0.

**MOTION / VOTE:** Mr. Kaferlein made a **MOTION** that the Zoning Board of Appeals **APPROVE** and issue a **SPECIAL PERMIT** as requested in application FY18-09, 426 Douglas Street, to reconstruct a single-family dwelling in accordance with the Uxbridge Zoning Bylaws Section 400-12 F and the conditions listed below. **MOTION SECONDED** by Mr. Gniadek passed unanimously by vote of 3-0-0.

**Condition 1:** The Applicant shall construct, within the boundary of the Property, a driveway turnaround sufficient to allow a passenger motor vehicle to turn around and exit the Property facing Route 16 to address the safety concerns related to the difficulty and potential hazard of backing a vehicle out onto Route 16.

**Condition 2:** That the proposed dwelling remain a single-family structure and any future change of use must be in accordance with the applicable provisions of the Zoning Bylaw and that if the Owner should change such use then the Owner shall obtain whatever relief from the Zoning Bylaw may be necessary to change the use.

Rob Knapik, Member  
John Gniadek, Member  
Mark Kaferlein, Member  
Thomas McNulty, Associate Member



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## DECISION

ZBA Case#: FY18-09

Zone: Business

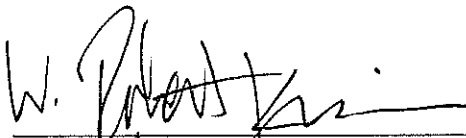
Property Owner: CA Calderon Landscaping, Inc.

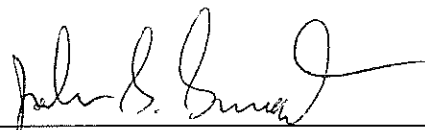
Property Address: 426 Douglas Street

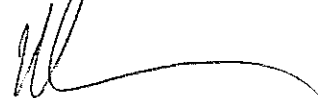
Assessor's Reference Map: 23 Parcel: 3743

Worcester District Registry of Deeds References: Book: 52430 Page: 180

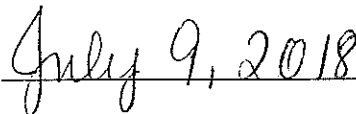
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Rob Knapik, Member

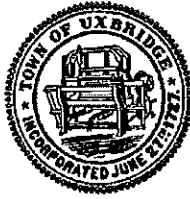
  
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John Gniadek, Member

  
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Mark Kaferlein, Member

\_\_\_\_\_  
Thomas McNulty, Associate Member

  
\_\_\_\_\_  
Date

Rob Knapik, Member  
John Gniadek, Member  
Mark Kaferlein, Member  
Thomas McNulty, Associate Member



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## **DECISION**

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**Appeals, if any, from this decision shall be made pursuant to M.G.L. Chapter 40 A, Section 17 and filed within 20 days after the date of the filing in the Office of the Town Clerk.**

I hereby certify that twenty (20) days has elapsed from the file date and no appeal has been filed in this office.

A true copy:     **ATTEST**

\_\_\_\_\_  
Town Clerk, Kelly Dumas or  
Assistant Town Clerk

\_\_\_\_\_  
Date

Town Seal

**\*\*THE APPLICANT IS REMINDED OF THEIR RESPONSIBILITY TO RECORD THIS  
DECISION AT THE REGISTRY OF DEEDS PER THE CERTIFICATE OF GRANTING.  
NO PERMITS SHALL ISSUE UNTIL THE PERMIT IS RECORDED. \*\***