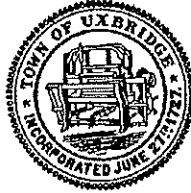


Rob Knapik, Chairman
John Gniadek, Vice Chairman
Mark Kaferlein, Clerk
Thomas McNulty, Associate Member
Jim Blackburn, Associate Member



Uxbridge Town Hall
21 South Main Street, Room 205
Uxbridge, MA 01569
508-278-8600 x2019 p

DECISION

REC'D UXD TOWN CLERK
2019 NOV 20 AM 11:03

ZBA Case #: FY20-06

Zone: **Agricultural Zoning District**

Owner: **Richardson-North Corporation**

Property Address: **306 Hazel Street**

Assessor's Reference Map: **23** Parcel: **545**

Worcester District Registry of Deeds References: Book: **18429** Page: **144**

Variance Denied

Decision Date: **November 6, 2019**

BACKGROUND: **306 Hazel Street, Richardson-North Corporation, Owner** is seeking a **VARIANCE** to reduce the frontage dimensional requirement from three-hundred feet (300') to zero feet (0'). Access to the property is provided by a twenty-foot (20') right-of-way driveway easement.

SUBMITTALS:

- Zoning Board of Appeals Application and Fees submitted by Andrews Survey and Engineering
- Zoning Board of Appeals Plan for 306 Hazel Street prepared by Andrews Survey and Engineering dated September 10, 2019
- Uxbridge Zoning Board of Appeals Decision for Hazel Street, dated January 10, 2000, Worcester Registry of Deeds Book 33023 and Page 109
- Property Deed and Driveway Easement
- Certified Abutter List

VOTING MEMBERS: Rob Knapik, John Gniadek, and Thomas McNulty

PRESENTATION / DELIBERATIONS / FINDINGS OF FACT:

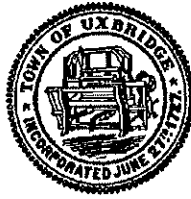
At a meeting of the Town of Uxbridge Zoning Board of Appeals, a duly noticed public hearing was opened and continued on October 2, 2019 and closed on November 6, 2019.

Travis Brown, Andrew's Survey and Engineering presented the application on behalf of the Applicant. Elias Richardson, the property owner, was also in attendance and offered some comments during the meeting. Mr. Brown described the property as a four-acre parcel, without any frontage, that can be accessed through a driveway easement. He explained that the Zoning Board of Appeals issued a Special Permit in January 10, 2000 that authorized construction of a single dwelling on the property. He also stated that this parcel has been taxed as a "buildable lot" since 2000 and that the applicant became aware the Special Permit had lapsed when his application for building permit was denied this year.

The Chair noted the initial form of relief granted was a Special Permit and explained why the lot at this time would require a Variance as was requested. Members acknowledged that in order to grant a Variance, as defined in M.G.L. Chapter 40A, Section 10, their charge is to find that circumstances owing to the soil, shape, or topography of the land that resulted in a hardship and the relief granted cannot nullify or derogate from the intent of the Zoning Bylaw. The Board also took into consideration several similar court cases for requests for a Variance.

Members verified the long-term validity of the easement and discussed whether it is appropriately sized for all required access. They agreed frontage requirement laws were enacted to ensure every lot might be reached by agencies charged with protecting the health safety and welfare of the public.

Rob Knapik, Chairman
John Gniadek, Vice Chairman
Mark Kaferlein, Clerk
Thomas McNulty, Associate Member
Jim Blackburn, Associate Member



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DECISION

ZBA Case #: **FY20-06**

Zone: **Agricultural Zoning District**

Owner: **Richardson-North Corporation**

Property Address: **306 Hazel Street**

Assessor's Reference Map: **23** Parcel: **545**

Worcester District Registry of Deeds References: Book: **18429** Page: **144**

Members found the area of the parcel is well in excess of the area required. They considered how to ensure the purpose of the bylaw is maintained if they grant the Variance and what conditions would be appropriate.

Mr. Blackburn referenced a point made in the initial decision that there was an error on an old Assessors map leading the applicant to believe he had frontage on Hazel Street. Mr. Richardson confirmed the lot did not have frontage, which is why he purchased the right away from his Aunt, and he thought the error might be related to the size of the lot and the property has since been surveyed.

The owner of the property directly abutting on the easterly side attended the meeting and spoke in opposition to the request.

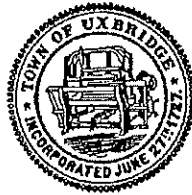
During deliberations, members acknowledged the difficulty in meeting the strict standard for the granting of a Variance. They recognized the financial hardship but there was not agreement on whether the circumstances related to the soil conditions, shape or topography of such land led to the hardship.

MOTION / VOTE:

Mr. McNulty made a **MOTION** to close the Public Hearing for FY 20-06 for 306 Hazel Street. **MOTION SECONDED** by Mr. Gniadek passed unanimously by vote of 3-0-0.

Mr. Gniadek made a **MOTION** that the Zoning Board of Appeals **GRANT** the **VARIANCE** as requested in the application package FY20-06 for 306 Hazel Street. **MOTION SECONDED** by Mr. McNulty and the **MOTION FAILED** by **VOTE** of 2-1-0.

Rob Knapik, Chairman
John Gniadek, Vice Chairman
Mark Kaferlein, Clerk
Thomas McNulty, Associate Member



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DECISION

ZBA Case #: **FY20-06**
Zone: **Agricultural Zoning District**
Owner: **Richardson-North Corporation**
Property Address: **306 Hazel Street**
Assessor's Reference Map: **23** Parcel: **545**
Worcester District Registry of Deeds References: Book: **18429** Page: **144**

SIGNATURE PAGE

Rob Knapik, Chairman

Mark Kaferlein, Clerk

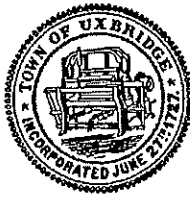
John Gniadek, Vice Chairman

Thomas McNulty, Associate Member

November 6, 2019

Date

Rob Knapik, Chairman
John Gniadek, Vice Chairman
Mark Kaferlein, Clerk
Thomas McNulty, Associate Member
Jim Blackburn, Associate Member



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508-278-0709 f

DECISION

ZBA Case #: FY20-06
Zone: Agricultural Zoning District
Owner: Richardson-North Corporation
Property Address: 306 Hazel Street
Assessor's Reference Map: 23 Parcel: 545
Worcester District Registry of Deeds References: Book: 18429 Page: 144

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. ****