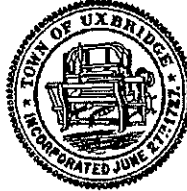


Rob Knapik, Chairman
John Gniadek, Vice Chairman
Mark Kaferlein, Clerk
Thomas McNulty, Associate Member
Jim Blackburn, Associate Member



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

Zoning Board of Appeals Decision

ZBA Case #: FY21-01
Zoning District: Business
Applicant: Uxbridge Gas & Market, LLC
Property Address: 502 & 486 Douglas Street
Assessor's Reference: Map 23, Parcels 4364 & 4424
Worcester District Registry of Deeds Reference: Book 54556, Page 63, and Book 27722, Page 346

SPECIAL PERMIT with Conditions

Decision Date: October 7, 2020

BACKGROUND: Uxbridge Gas & Market, LLC (the "Applicant") submitted an Application for a **SPECIAL PERMIT** (the "Application") from the Uxbridge Zoning Board of Appeals (the "Board"), pursuant to Section 400-50 (Special Permits) and Appendix A (Table of Use Regulations) of the Uxbridge Zoning Bylaws, to build and operate a gasoline filling station and convenience store with attached drive-through coffee shop, at property known as and numbered 502 and 486 Douglas Street (the "Property" or the "Site") (the "Project"). The Application was submitted June 24, 2020.

SUBMITTALS:

1. The Application, dated June 24, 2020, was submitted by CMG Environmental, Inc. on behalf of the Applicant, and consisted of the Special Permit Application, with additional property information including deeds of the parcels that comprise the Property, Municipal Lien Certificates, a Certified List of Abutters, associated fees and the "Site Plan" (as hereinafter defined).
2. Plans entitled "Uxbridge Gas & Market Proposed Filling Station/Convenience Store w/ Drive-Thru", prepared by CMG Environmental, Inc., dated May 8, 2020 (with a final revision date of September 4, 2020 unless otherwise specified) (the "Site Plan"), which included the following plan sheets:
 - Sheet 1 Title Sheet
 - Sheet 2 Existing Conditions Plan
 - Sheet 3 Site Plan (Revised September 30, 2020)
 - Sheet 4 Grading and Drainage Plan (Revised September 30, 2020)
 - Sheet 5 Utilities Plan (Revised September 21, 2020)
 - Sheet 6 Erosion & Sediment Control Plan (Revised September 30, 2020)
 - Sheet 7 Truck Turn Figure Plan (Revised September 21, 2020)
 - Sheet 8 Detail Sheet
 - Sheet 9 Detail Sheet
 - Sheet 10 Detail Sheet
 - Sheet 11 Detail Sheet

SPECIAL PERMIT with Conditions

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- Sheet 12 Detail Sheet (Revised September 30, 2020)
- Sheet 13 Detail Sheet
- Sheet 14 Landscape Plan
- Sheet 15 Landscape Detail Sheet
- Sheet 16 Lighting Proposal (Dated May 6, 2020; Revised May 18, 2020)

3. File Correspondence:

- Dated September 29, 2020: letter from Uxbridge DPW;
- Dated August 5, 2020: letter from Uxbridge DPW;
- Dated September 29, 2020: letter from Graves Engineering, Inc. providing peer review of the Site Plan;
- Dated August 5, 2020: letter from Graves Engineering, Inc. providing peer review of the Site Plan;
- Dated September 23, 2020: letter from Vanasse & Associates Inc. providing peer review of the submitted Traffic Impact and Access Study;
- Dated September 17, 2020: letter from Vanasse & Associates Inc. providing peer review of the submitted Traffic Impact and Access Study;
- Dated September 18, 2020: email from CMG Environmental, Inc.;
- Dated September 23, 2020-September 28, 2020: emails from Attorney Thomas Reidy and Principal Engineer David Faist;
- Dated May 8, 2020 and revised September 04, 2020: Stormwater Report, prepared by CMG Environmental, Inc.;
- Dated June 24, 2020: Architectural Floor Plan and Exterior Elevations for Filling Station and Convenience Store, prepared by Vreeland Design Associates;
- Dated August 28, 2020: Supplemented Traffic Impact and Access Study, prepared by MDM Transportation Consultants, Inc.; and
- Dated September 23, 2020: Underground Storage Tank System Information and Safety Discussion, prepared by Tg2 Solutions, LLC.

4. Public Comments

- Dated August 3, 2020: Petition opposing the Project signed by one hundred seventy-nine (179) signatories;
- Dated September 29, 2020: Environmental Report: Hydrocarbon Release During Fuel Storage and Transfer at Gas Stations, Current Environmental Health Reports, 30 Nov 2015, 2(4):412-422, M. Hilbert *et als.*; and
- Twenty-one (21) letters of opposition and one (1) letter of support submitted by various parties.

VOTING MEMBERS: Robert Knapik, John Gniadek and Thomas McNulty

PRESENTATION:

The Board opened the public hearing on August 5, 2020, at which time testimony and public comment were given. The public hearing was continued to September 2, 2020. The public hearing on September 2, 2020

SPECIAL PERMIT with Conditions

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was continued, at the request of the Applicant, to October 7, 2020. At the public hearing on October 7, 2020, the Board heard testimony and public comment, and the hearing was closed. The public hearing was conducted via remote participation pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A §18, and Governor Baker's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place due in response to the Covid-19 pandemic.

The Applicant was represented during the public hearing by Attorney Thomas Reidy; David Faist, Engineer, CMG Environmental, Inc.; Robert Michaud, Traffic Engineer, MDM Transportation Consultants, Inc.; and Eric Simpson, LSP Compliance, TG2 Solutions. The Applicant, through its representatives, presented the Application and explained that the Project includes a proposed gasoline filling station, and convenience store with an attached drive-through coffee window, in a convenient location just off Route 146.

In describing the Project, the Applicant, through its representatives, presented information regarding the approximately 5,000 square foot project which would include a convenience store (a use allowed by right in the Business Zoning District), ten (10) automobile fueling stations, and two (2) high-speed diesel fueling stations. The Project is located entirely within the Business Zoning District.

The Board reviewed the material submitted, including: review letters from the Town's consulting engineer, Graves Engineering; Memoranda from Uxbridge Department of Public Works; independent review of the Traffic Impact Study; the Site Plan; and a Project Narrative and Impact Statements. The Board also considered the Applicant's presentation and testimony from abutters and other interested parties.

FINDINGS:

The Board found, based upon its review of all of the materials submitted, testimony of the Applicant and its representatives, and testimony of abutters and other interested parties, that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the Site and of the proposal [Project] in relation to the Site. Specifically, in making its determination, the Board considered: 1. the social, economic, or community needs which are served by the proposal; 2. traffic flow and safety, including parking and loading; 3. adequacy of utilities and other public services; 4. neighborhood character and social structures; 5. impacts on the natural environment; and 6. potential fiscal impact, including impact on town services, tax base and employment, as follows:

1. The social, economic and community needs which are served by the proposal [Project] are positive. The proposed retail convenience store and gasoline filling station project, based on the submitted materials, together with all associated parking, facilities and infrastructure has been located in a manner consistent with the Uxbridge Zoning Bylaw, Appendix A (Table of Use Regulations), and Article X (Definitions). The location of the proposed use, and its proximity to the intersection of Route 146 and 16, will decrease transient vehicle traffic, including that of large tractor-trailer trucks, through the center of Town. The Project will provide convenient access to motor vehicle fuel for Town residents leaving or returning by way of Route 146. The proposed use will also provide the community with an increased tax base compared to the current residential use. Additionally, the proposed use will create a significant number of new employment opportunities for residents of the Town.

SPECIAL PERMIT with Conditions

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2. There is minimal impact on traffic flow and safety, including parking and loading.

The Applicant submitted a Transportation Impact and Analysis Study (the "TIAS"), prepared by MDM Transportation Consultants, which was reviewed on behalf of the Town by Vanasse & Associates Inc. The Applicant revised the Project in response to peer review analysis by Vanasse & Associates Inc. Access to the Project will be by two (2) separate full access driveways spaced two-hundred feet apart, a design intended to mitigate any buildup of traffic entering or leaving the Property. According to the TIAS, there will be no significant increase in motorist delay or vehicle queuing during peak-volume hours, with or without improvements to the Route 146 and 16 ramp intersections. No roadway improvements are warranted to accommodate the Project. The Applicant submitted a supplemental traffic study which concluded that the development of a nearby warehouse project, situated at 515 Douglas Street, would not result in any significant change in the traffic calculations for the Project. In connection with review of the Project by other Town board, the Applicant revised the Project to accommodate potential queuing in the drive-through window, including designating certain parking spaces "employee only" and relocating a future electric vehicle charging station. The Project will provide nineteen (19) dedicated parking spaces, including two (2) handicap spaces, as well as ten (10) spaces available at fuel pumps and two (2) truck spaces available at high-speed diesel pumps, for a total of twenty-nine (29) vehicle parking space (excluding the two high-speed diesel truck spaces), which satisfies the minimum requirements of the Uxbridge Zoning Bylaws. The Project includes a separate loading zone at the southeast corner of the Site to ensure that traffic and parking will not be affected while goods are being loaded or offloaded. The Project has sufficient lighting for nighttime operation, but illumination is specifically designed not be a nuisance or a hazard to abutters.

3. There will be minimal impact on utilities and other public services.

The proposal includes appropriate utility access, including water, electricity and sewage that will create minimal demand on the Town. The future use as a fueling station and convenience store is expected to require approximately 1,100 gallons of water per day, and to generate approximately 1,000 gallons of sewage per day. The Project owner will be responsible for snow clearing and landscaping. The Project has been reviewed by Uxbridge Department of Public Works, and the Applicant revised the Project in response to such review. A truck turning analysis has indicated that an Uxbridge Fire Department apparatus can safely access the Site and maneuver in an unimpeded manner without intrusion into parking spaces or vehicle fueling positions. A truck turning analysis has indicated that a proposed garbage vehicle can safely access the Site and maneuver to the proposed dumpster area.

4. There will be minimal impact on the neighborhood character and social structures.

The Project is entirely located within the Business Zoning District. The Project includes significant landscaping and enhanced architectural design features designed to minimize visual impact on the surrounding area. The existing wooded area at the rear of the Property will remain as a backdrop, provide practical sound buffering, and serve the aesthetic of the Project. Lighting has been designed to prevent any excess light from entering the abutting properties or roadways. The Project will have little to no impact on air quality, water quality, vibration, or electromagnetic

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radiation. The use of the Site as a fuel station and convenience store will not have an adverse effect on the social structures of the Town or neighborhood.

5. There will be a no impact on the natural environment.

The Project is sited outside of the Town's 25-foot "no disturb zone" from wetland resource areas and has been issued an Order of Conditions from Uxbridge Conservation Commission. The proposed use will not threaten any public or private water supply. The Applicant submitted an appropriate sediment and erosion control plan. The proposed fuel storage system will be installed and operated in accordance with all relevant Federal, State, and Local regulations designed, in part, to prevent harm to the natural environment. The fuel storage system includes double-walled storage tanks constructed of reinforced fiberglass. Each fuel storage tank contains an Automatic Tank Gauge which continuously tests for water or fuel intrusion into the interstitial space between the walls of each tank. This monitoring system will immediately alert the operator of the facility in the event of groundwater intrusion or fuel leakage into the interstitial space between the fuel storage tank walls. A liquid-tight sump pump will be fused to the top of each fuel storage tank, with an additional sensor in each pump, and double-walled fiberglass fuel lines. The Project includes appropriate safeguards for the proposed use as a fuel station, including spill protection, overfill protection, and automatic shutoff valves. The Project includes a stormwater management system designed to comply with the Massachusetts Department of Environmental Protection Stormwater Handbook. Erosion and sediment controls will control erosion during construction. The Project is designed to have no off-site environmental impacts.

6. The potential fiscal impact on town services, tax base and/or employment is positive.

The proposed use will increase the tax base of the Town as compared to the current residential use. According to the Uxbridge Assessor, the assessed value of 502 Douglas Street is \$261,300, and the assessed value of 486 Douglas Street is \$385,800. According to the Uxbridge Assessor, the assessed value of a recently constructed fueling station and convenience store, similar in size to the Project and situated at the corner of North Main Street and Hazel Street, is \$1,284,400. Based on these figures, the Project is expected to increase the Town's tax base by more than \$635,000. The resulting increase in tax revenue will have a significant positive effect on the Town. The proposed use will also create a significant number of new employment opportunities for residents of the Town. The Applicant estimates the need for fourteen (14) employees.

SPECIAL PERMIT with Conditions

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MOTION / VOTE:

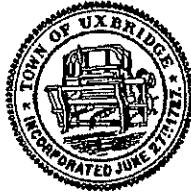
MOTION made by Mr. McNulty to close the Public Hearing for Case Number FY21-01. **MOTION SECONDED** by Mr. Gniadek, and **PASSED** unanimously by roll call **VOTE** of 3-0-0 (Gniadek – aye, Knapik – aye, McNulty – aye).

MOTION made by Mr. Gniadek that the Board vote to **GRANT** a **SPECIAL PERMIT**, as requested in the Application for Case Number FY21-01, upon a **FINDING** by the Board for the reasons set forth hereinabove that the adverse effects of the Project will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the Site and of the proposal [Project] in relation to the Site, and subject to the following **CONDITIONS**:

1. Hours of Operation shall be limited to 5:00 am to 12:00 am for a trial period of six (6) months after the Project opens to the public for business. Upon conclusion of such six-month period, the Applicant may petition the Board to modify this condition to enlarge or otherwise alter Hours of Operation. The decision of the Board to enlarge or alter Hours of Operation shall be based upon consideration of testimony, if any, of surrounding property owners, and testimony, if any, of appropriate officials or representatives of the Town, including but not necessarily limited to the Building Inspector, Uxbridge Police Department, and Uxbridge Fire Department.
2. The Project shall be constructed in accordance with the Site Plan.
3. The number of fuel stations shall be limited to the number depicted on the Site Plan.
4. Music or outdoor audio advertising shall be prohibited.
5. Plantings shall be installed as shown on the Site Plan and shall be supplemented with additional plantings along the top of the retaining wall. Plantings shall be assured for one (1) full growing season.
6. Outdoor lighting shall be downcast to avoid light spillover onto adjoining properties.
7. Trash collection, and any resulting noise created thereby, shall occur only during hours not likely to have an adverse effect on nearby residents, such as between the hours of 5:00 am and 8:00 am.
8. "No Loitering" signs shall be posted on the building.

MOTION SECONDED by Mr. McNulty, and **PASSED** unanimously by roll call **VOTE** of 3-0-0 (Gniadek – aye, Knapik – aye, McNulty – aye).

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



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21 South Main Street, Room 205
Uxbridge, MA 01569
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508-278-0709 f

Zoning Board of Appeals Decision

ZBA Case #: FY21-01

Zone: **Business Zone**

Applicant: **Uxbridge Gas & Market, LLC**

Property Address: **502 & 486 Douglas Street**

Assessor's Reference Map: **23** Parcel: **4364 & 4424**

Worcester District Registry of Deeds References: Book: **54556 & 27722** Page: **63 & 346**

SIGNATURE PAGE 1 of 3

Rob Knapik, Chairman

John Gniadek, Vice Chairman

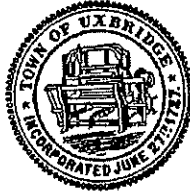
Mark Kaferlein, Clerk

Thomas McNulty, Associate Member

Jim Blackburn, Associate Member

October 21, 2020
Date

Rob Knapik, Chairman
John Gniadek, Vice Chairman
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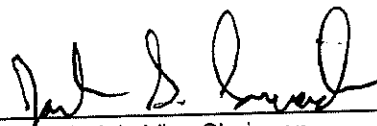
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SIGNATURE PAGE 2 of 3

Rob Knapik, Chairman



John Gniadek, Vice Chairman

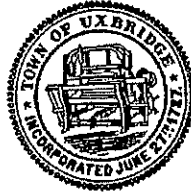
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October 20, 2020
Date

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SIGNATURE PAGE 3 of 3

Rob Knapik, Chairman

John Gniadek, Vice Chairman

Mark Kaferlein, Clerk



Thomas McNulty, Associate Member

Jim Blackburn, Associate Member

October 20, 2020
Date

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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. ****