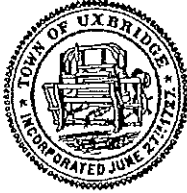


Rob Knapik, Member
John Gniadek, Member
Mark Kaferlein, Member
Thomas McNulty, Associate Member
Jim Blackburn, Associate Member



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

Zoning Board of Appeals DECISION

ZBA Case #: FY21-18

Zone: Agricultural

Applicant: Wayne S. Roy and Melodie A. Roy

Property Address: 503 Elmwood Avenue

Assessor's Reference Map: 49 Parcel: 3057

Worcester Registry of Deeds Book: 41118 Page: 371

VARIANCE GRANTED

Decision Date: July 7, 2021

VOTING MEMBERS: Rob Knapik, John Gniadek and Jim Blackburn

SUBMITTALS:

- Complete Zoning Board of Appeals Application and Fee prepared and submitted by Attorney Mark Wickstrom, Wickstrom Morse, LLC
- Certified Abutters List
- Uxbridge Zoning Board Decision for 503 Elmwood Ave dated November 6, 2019

REQUEST:

Applicants **Wayne S. Roy and Melodie A. Roy** are seeking a reissuance of a **VARIANCE** to reduce the frontage dimensional requirement of three hundred feet (300') to forty-six and three quarters feet (46.75') at **503 Elmwood Avenue**.

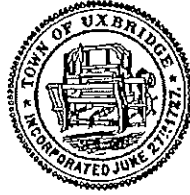
PRESENTATION / FINDINGS OF FACT / DELIBERATIONS:

A duly noted public hearing was opened and closed on July 7, 2021. The applicant was represented by Mark Wickstrom, Wickstrom Morse LLP.

Mr. Wickstrom reviewed the request that the Uxbridge Zoning Board of Appeals re-issue a Variance granted on November 6, 2019. The Variance allowed for a buildable lot with of forty-seven feet (47') of frontage on six and one half (6.5) acres of land on Elmwood Avenue. The variance was granted based on a hardship created when a portion of the property, consisting of approximately four hundred and seventy-eight feet (478') of frontage on Elmwood Avenue, was taken by eminent domain by the Boston Edison Electric Company. It was mentioned that a large portion of the property has frontage on Locust Street, which has been discontinued and is no longer a public roadway.

Mr. Wickstrom also pointed out that the original Variance referred to in the Petition should still be in full-force and effect since it would have expired during the Covid-19 pandemic. On its own terms, it would have expired December 17, 2020. The reason it is still in effect is found in the tolling provision of Governor

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Thomas McNulty, Associate Member
Jim Blackburn, Associate Member



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Zoning Board of Appeals DECISION

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Charles Baker's emergency acts related to the COVID-19 pandemic - Massachusetts Session Law in the Acts of 2020 – Chapter 53 Section 17. He explained the applicants have chosen to request the reissuance of the variance to allow for more time to proceed.

There was no comment from any members of the public or the Zoning Enforcement Officer.

Board members reviewed the standard for the grant of a variance as outlined in M.G.L. Chapter 40A §10 and the prior Zoning Board Decision. They agreed lack of frontage is not typically sufficient on its own as a hardship but in this case, there was the unique circumstance in which a utility company took a portion of the property. That taking resulted in a "pork chop" shaped lot with very little frontage and that literal enforcement bylaw would cause a financial hardship. They also found granting the relief would not be detrimental to the public or derogate from the intent of the Uxbridge Zoning Bylaw.

MOTIONS / VOTES:

Mr. Blackburn made a **MOTION** to close the Public Hearing for FY21-18 503 Elmwood Avenue. **MOTION SECONDED** by Mr. Gniadek passed unanimously by roll call **VOTE** of 3-0-0 (Blackburn – aye, Gniadek – aye, Knapik – aye).

Mr. Blackburn made a **MOTION** that the Zoning Board of Appeals **GRANT** a **VARIANCE** to reduce the frontage dimensional requirement from three hundred feet (300') to forty-six and three quarters feet (46.75') as requested in the application package FY21-18 for 503 Elmwood Avenue with the following **CONDITIONS**:

1. Only one (1) single family dwelling may be constructed on the property in compliance with the Uxbridge Zoning Bylaw and any other applicable rules and regulations
2. The principal structure must be at least four hundred feet (400') from the front line of the property on Elmwood Street
3. The driveway and access to the property must comply with current fire code standards
4. Any further subdivision of the property is prohibited

The Board made a finding that there is a circumstance, unique to this property, as it relates to the shape of the land, specifically to a taking of a portion of the property by a utility company, and that a literal enforcement of the bylaw would result in substantial hardship and granting relief would not derogate from the intent of the bylaw or harm the public good.

MOTION SECONDED by Mr. Gniadek and the motion passed unanimously by roll call **VOTE** of 3-0-0 (Blackburn – aye, Gniadek – aye, Knapik – aye).

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Zoning Board of Appeals DECISION

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SIGNATURE PAGE 1 of 3

Rob Knapik, Chairman

John Gniadek, Vice Chairman

Mark Kaferlein, Clerk

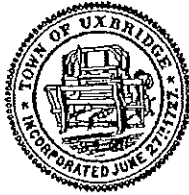
Thomas McNulty, Associate Member

Jim Blackburn, Associate Member

7/14/2021

Date

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



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Zoning Board of Appeals DECISION

ZBA Case #: FY21-18

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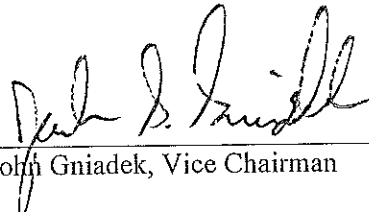
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Worcester Registry of Deeds Book: 41118 Page: 371

SIGNATURE PAGE 2 of 3

Rob Knapik, Chairman



John Gniadek, Vice Chairman

Mark Kaferlein, Clerk

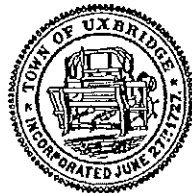
Thomas McNulty, Associate Member

Jim Blackburn, Associate Member

Date

7/14/2021

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John Gniadek, Member
Mark Kaferlein, Member
Thomas McNulty, Associate Member
Jim Blackburn, Associate Member



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Zoning Board of Appeals DECISION

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SIGNATURE PAGE 3 of 3

Rob Knapik, Chairman

John Gniadek, Vice Chairman

Mark Kaferlein, Clerk

Thomas McNulty, Associate Member

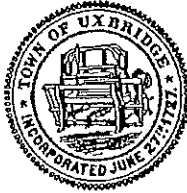


Jim Blackburn, Associate Member

Date

7/19/2021

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John Gniadek, Member
Mark Kaferlein, Member
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Zoning Board of Appeals DECISION

ZBA Case #: FY21-18

Zone: Agricultural

Applicant: **Wayne S. Roy and Melodie A. Roy**

Property Address: **503 Elmwood Avenue**

Assessor's Reference Map: **49** Parcel: **3057**

Worcester Registry of Deeds Book: **41118** Page: **371**

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. ****