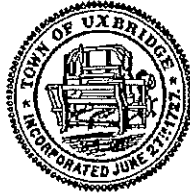


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John Gniadek, Member
Mark Kaferlein, Member
Thomas McNulty, Associate Member
Jim Blackburn, Associate Member



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Zoning Board of Appeals DECISION

ZBA Case #: FY22-02

Zone: **Agricultural and Residential C Zoning Districts**

Appellant: **Elizabeth Barry Crawford**

Property Address: **27 Pudding Street**

Assessor's Reference Map: **7, Parcel: 643**

Worcester Registry of Deeds Book: **57955, Page: 70**

Decision Date: November 3, 2021

VOTING MEMBERS: Rob Knapik, John Gniadek, Jim Blackburn

SUBMITTALS:

- Complete Zoning Board of Appeals Application and Fee
- A valid, State of Maine, Long Term Semi Trailer Registration
- Notices of Violation dated August 17, 2021 and August 26, 2021
- Memorandum for Consideration provided by counsel for an abutter dated October 5, 2021

REQUEST:

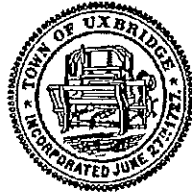
Elizabeth Barry Crawford ("Appellant") appeals, pursuant to G.L. c. 40A, §8, a Notice of Violation dated August 17, 2021 ("First Notice") and a Notice of Violation dated August 26, 2021 ("Second Notice") relating to 27 Pudding Street, both issued by the Uxbridge Inspector of Buildings and Zoning Enforcement Officer ("ZEO") Larry Lench (the "Appeal").

PRESENTATION / FINDINGS OF FACT / DELIBERATIONS:

A public hearing on the Appeal was opened by the Uxbridge Zoning Board of Appeals ("Board") on October 6, 2021, continued to November 3, 2021, and closed on November 3, 2021.

Appellant is the owner of property known as and numbered 27 Pudding Street, Uxbridge, Massachusetts (the "Property"). The Property, situated on the northeast end of Pudding Street, is shown as Uxbridge Assessor's Parcel ID 007.0-0643-0000.0 and comprises approximately 4.67 acres of land. According to the records of Worcester District Registry of Deeds (the "Registry"), the Property was acquired by Elizabeth Barry by deed dated October 27, 2017 and recorded with the Registry in Deed Book 57955, Page 70. Situated on the Property is one single-family dwelling, a barn, detached garage, and related

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Zoning Board of Appeals DECISION

ZBA Case #: FY22-02

Zone: **Agricultural and Residential C Zoning Districts**

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driveways and utilities. Access to the Property is from Pudding Street. According to the Zoning Map of the Town of Uxbridge, the Property is situated partly within the Agricultural Zoning District and partly within the Residential C Zoning District.

In the First Notice, the ZEO determined that because certain tractor (*sic*) trailer situated on the Property violates Section 400-22 of the Uxbridge Zoning Bylaw (the "Bylaw"), the trailer must be removed. In the Second Notice, the ZEO determined that the Bylaw defines a "Trailer", in relevant part, as "any portable or movable vehicle on wheels, skids, or rollers".

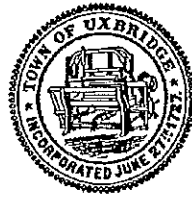
Appellant testified that she caused the trailer to be brought to the Property on August 16, 2021 for the purpose of storing hay to feed two horses kept at the Property by her. Although there is a barn on the Property, according to Appellant she chose to acquire a trailer to store hay because storing hay in her barn presented a fire risk. Appellant testified that she neither raises nor breed horses. According to Appellant, approximately two hundred bails of hay can be stored in the trailer, and each of her horses consume approximately one-half bail of hay per day.

Upon receipt of Notices of Violation dated August 17, 2021 and August 26, 2021 from the ZEO indicating that keeping a tractor (*sic*) trailer violates Section 400-22 of the Bylaw, Appellant filed the Appeal. In the Appeal, Appellant asks the Board to overturn the determination of the ZEO as set forth in the Notices of Violation dated August 17, 2021 and August 26, 2021. Appellant argued, in the main, that ZEO's interpretation of the Bylaw is incorrect because" a.) the trailer is registered; b.) the Property is situated in an agricultural zoning district; and c.) no provision of the Bylaw expressly prohibits keeping a trailer on one's property.

According to the ZEO, the trailer, in its location on the Property, its condition, and a used by Appellant, is not allowed by Section 400-22 of the Bylaw.

Abutters, owner of 15 Pudding Street, filed the initial complaint with the ZEO that resulted in issuance of the First Notice and the Second Notice. Abutters provided comments, through counsel, at the public hearings. Based on Appellant's testimony and Abutters comments at the October 6, 2021 public hearing, the Board agreed, at the request of Appellant and Abutters, to continue the public hearing to November

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Zoning Board of Appeals DECISION

ZBA Case #: FY22-02

Zone: **Agricultural and Residential C Zoning Districts**

Appellant: **Elizabeth Barry Crawford**

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3, 2021 to afford Appellant and Abutters the opportunity to confer to reach a mutually satisfactory resolution regarding the trailer.

At the November 3, 2021 public hearing, Appellant testified that although communication between her and Abutters was generally not successful or productive, she was willing to take certain measures, including planting trees in the vicinity of the property line, to mitigate the effect of the trailer on Abutters' property. Abutters similarly testified that communication with Appellant, or Appellant's counsel, was generally sporadic, unsuccessful, and unproductive, or at least failed to result in a mutually satisfactory resolution regarding the trailer. In fact, Abutters concluded that they did not expect to be able to resolve the matter.

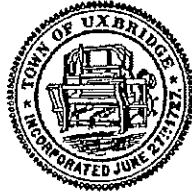
MOTIONS / VOTES:

Because Appellant and Abutters were unable to resolve the matter, the Board determined that it would be necessary to either: a.) overturn the adverse determination of the ZEO as set forth in the First Notice and the Second Notice; b.) uphold the adverse determination of the ZEO as set forth in the First Notice and the Second Notice.

The Board discussed, without fully resolving, the merits of Appellants arguments. The Board was unable to determine whether, in this instance, the fact that the trailer is registered is dispositive of the question whether the trailer violates Section 400-22 of the Bylaw. The Board was also of varied opinion whether or not the keeping of two horses alone, without any intent to breed horses, constitutes "agriculture", or whether or not the fact that a portion of the Property is situated within an agricultural zoning district is relevant to whether the trailer violates Section 400-22 of the Bylaw. While some members of the Board acknowledged that the Bylaw lacked specificity regarding keeping trailers of the same type as Appellant, other members did not necessarily disagree with the ZEO's interpretation of the Bylaw regarding such trailers.

The Board determined that to overturn the adverse determination of the ZEO as set forth in the First Notice and the Second Notice, the Board must determine that ZEO determination is based on a legally untenable ground, or is unreasonable, capricious or arbitrary.

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Zoning Board of Appeals DECISION

ZBA Case #: FY22-02

Zone: **Agricultural and Residential C Zoning Districts**

Appellant: **Elizabeth Barry Crawford**

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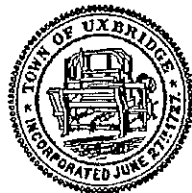
Upon the conclusion of all evidence, Mr. Blackburn made a **MOTION** to close the Public Hearing for FY22-02 27 Pudding Street. **MOTION SECONDED** by Mr. Gniadek passed unanimously by **VOTE** of 3-0-0.

Mr. Blackburn made a **MOTION** that the Board **OVERTURN** the ZEO's First Notice. **MOTION SECONDED** by Mr. Gniadek **FAILED** by **VOTE** of 2-1-0 (Gniadek – aye, Blackburn – aye, Knapik – nay)

Mr. Knapik made a **MOTION** that the Board **UPHOLD** the First Notice. **MOTION NOT SECONDED**

Because the Board did not overturn the adverse determination of the ZEO as set forth in the First Notice and the Second Notice, the adverse determination of the ZEO as set forth in the First Notice and the Second Notice stands, and the trailer must be removed.

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Zoning Board of Appeals DECISION

ZBA Case #: FY22-02

Zone: Agricultural and Residential C Zoning Districts

Applicant: Elizabeth Barry Crawford

Property Address: 27 Pudding Street

Assessor's Reference Map: 7 Parcel: 643

Worcester Registry of Deeds Book: 57955 Page: 70

SIGNATURE PAGE

Rob Knapik, Chairman

John Gniadek, Vice Chairman

Mark Kaferlein, Clerk

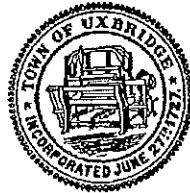
Thomas McNulty, Associate Member

Jim Blackburn, Associate Member

November 17, 2021

Date

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Jim Blackburn, Associate Member



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Zoning Board of Appeals DECISION

ZBA Case #: FY22-02

Zone: Agricultural and Residential C Zoning Districts

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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

****APPELLANT 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. ****