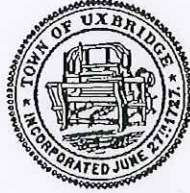


POSTED UXB TOWN CLERK  
2023 JUN 21 PM6:17

Rob Knapik, Chairman  
Thomas McNulty, Member  
Jim Blackburn, Member  
Tariq Fayyad, 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 #: FY22-02 Remanded  
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

## **APPEAL GRANTED June 7, 2023**

**VOTING MEMBERS:** Jim Blackburn, Thomas McNulty, Tariq Fayyad

### **SUBMITTALS:**

- Complete Zoning Board of Appeals Application and Fee dated September 14, 2021
- Notices of Violation dated August 17, 2021 and August 26, 2021 issued by the Uxbridge Inspector of Buildings/ZEO
- A valid, State of Maine, Long Term Semi Trailer Registration
- Memorandum for Consideration provided by counsel for an abutter dated October 5, 2021
- Decision of the Uxbridge Zoning Board of Appeals for case FY22-02, 27 Pudding Street
- Notice of Zoning Appeal, Commonwealth of Massachusetts, Worcester Superior Court C.A. No. 2185 CV01286, Elizabeth Crawford v. The Town of Uxbridge Zoning Board of Appeals, Filed with the Uxbridge Town Clerk December 14, 2021
- Notice of Remand, Commonwealth of Massachusetts, Worcester Superior Court C.A. No. 2185 CV01286, Elizabeth Crawford v. The Town of Uxbridge Zoning Board of Appeals dated April 28, 2023

### **REQUEST/BACKGROUND:**

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

According to the ZEO, the trailer, in its location on the Property, its condition, and as used by Appellant, is not allowed by Section 400-22 of the Uxbridge Zoning Bylaw. The Appellant argued, that ZEO's interpretation of the Bylaw is incorrect because" a.) the trailer is registered; b.) the Property is situated in



Rob Knapik, Chairman  
Thomas McNulty, Member  
Jim Blackburn, Member  
Tariq Fayyad, Associate Member



Uxbridge Town Hall  
21 South Main Street, Room 205  
Uxbridge, MA 01569  
508-278-8600 x2013 p  
508-278-0709 f

## **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**

an agricultural zoning district; and c.) the trailer is part of an allowable accessory use of caring for two horses.

Public hearings were held in October and November of 2021 and the ZEO's determination was upheld because the Board did not unanimously agree that it should be overturned. The Appellant appealed the Board's decision to the Worcester Superior Court. Through counsel the town negotiated a Joint Motion for Remand which resulted in issuance of a remand order by the court on April 28, 2023. The remand order required the Board to conduct a remand public hearing based on the information previously provided and any new information submitted for consideration of which there was none. The Board obtained a current certified abutters list on May 8, 2023 and duly posted the public remand hearing to be held June 7, 2023.

### **PRESENTATION / FINDINGS OF FACT / DELIBERATIONS:**

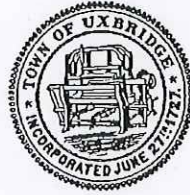
The public hearing on the remanded Appeal was opened by the Uxbridge Zoning Board of Appeals ("Board") on June 7, 2023.

Uxbridge Town Counsel Alex Weisheit, KP Law P.C. attended the meeting to provide support to the Board. He explained the Board was entitled to review all of the existing documents and information in the record, as well as any new testimony or information received during the public hearing. He noted that the remand order asked the Board to determine whether the trailer on the Appellant's property, which formed the basis for the ZEO's enforcement, is an allowable accessory structure appurtenant to an allowable accessory use of caring for two horses.

Attorney Mark Wickstrom, Wickstrom Morse, LLP, represented Elizabeth Crawford during the public hearing. He said not much has changed from the prior petition when it originated. He argued that the Uxbridge Zoning Bylaw Section 400-22, used by the ZEO to support the First and Second Notices, does not apply to Ms. Crawford's use of the trailer. Mr. Wickstrom said the use of this trailer on the Appellant's property is used simply to store hay for their horses. The horses are for the Appellant's personal riding use and as pets that they care for at home. He said it is all personal use and this is the type of use that is allowed as incidental and customary to a residential property in the agricultural zone.



Rob Knapik, Chairman  
Thomas McNulty, Member  
Jim Blackburn, Member  
Tariq Fayyad, Associate Member



Uxbridge Town Hall  
21 South Main Street, Room 205  
Uxbridge, MA 01569  
508-278-8600 x2013 p  
508-278-0709 f

## **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**

The abutter at 15 Pudding Street commented, through counsel, during the June 7, 2023 public hearing as well as both public hearings in 2021. Their concern is the visual impact of this trailer from their property. The trailer is placed close to their property line and their counsel noted that it is located in the Residential C Zoning District portion of the parcel. They requested the public hearing be continued to a mutually agreed upon date so they could have the opportunity to review materials and participate in conversations with the Appellant's counsel to reach a negotiated settlement and if a resolution cannot be reached then possibly special conditions could be considered. They alleged that proper procedure was not followed and suggested the possibility of the special permit application which would provide the opportunity to for conditions.

The Appellant's counsel responded to the comments stating the purpose of being able to appeal a ZEO's decision is because sometimes they are wrong and their decisions are not law. ZEO decisions are based on their interpretation of the zoning bylaw and the Board's interpretation on appeal would trump the ZEO's decision. He argued that the appropriate procedure was followed in accordance with the remand order. He also stated that approximately 98% of the parcel is in the Agricultural Zoning District and the Residence C Zone line runs almost parallel with the lot line. Appellant's counsel reiterated that Ms. Crawford is looking for the Board to make the legal determination that the trailer which is used to store hay for pet horses is part of an allowable accessory use of caring for two horses.

Town Counsel stated his opinion that the agricultural use of the caring for the horses is an accessory use to the primary use of a single-family residence in the Agricultural District. He requested that the Board determine whether this trailer is a minor and incidental part and parcel of that accessory use and customary in this general neighborhood. Members considered and discussed whether the trailer constitutes a structure and/or use as defined in the Uxbridge Zoning Bylaw and how that impacts their determinations and the overall Appeal.

The Board asked whether Appellant would consider the suggestion of continuing the public hearing to allow for negotiations and a possible resolution for all parties. The Appellant stated they had been here twice before a couple of years ago and were asked to go back with the abutters and work with counsel to come up with a solution that really would appease all parties. She said they offered to plant trees, extend a fence, and consider relocating the trailer to minimize the appearance but they were never able to reach a resolution acceptable to the abutters. She asked the Board to issue a decision.



Rob Knapik, Chairman  
Thomas McNulty, Member  
Jim Blackburn, Member  
Tariq Fayyad, Associate Member



Uxbridge Town Hall  
21 South Main Street, Room 205  
Uxbridge, MA 01569  
508-278-8600 x2013 p  
508-278-0709 f

## **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**

Members of the Board and Town Counsel agreed proper procedure was followed. The Board considered whether this decision could include conditions and counsel suggested that would be outside the scope of this type of appeal. Everyone agreed that this is an administrative appeal of the ZEO's determination and the Board's review is limited to the determination of whether or not the ZEO was correct, and therefore, whether the notice of violation should be upheld or overturned.

Members had a final conversation about visual screening with the Appellant who said they would be willing to extend the 6-foot vinyl privacy fence. They did not believe there was an alternative area that is level enough for the trailer to be moved to on the property that is within reasonable distance of the barn to get the hay in and out.

### **MOTIONS / VOTES:**

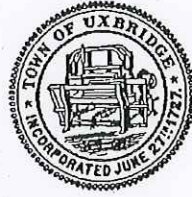
Mr. McNulty made a MOTION to close the remand public hearing for ZBA Case No. FY22-02 27 Pudding Street. MOTION SECONDED by Mr. Fayyad passed unanimously by VOTE of 3-0-0.

Mr. Blackburn made a MOTION that the Board find that the trailer is not a structure as that term is defined in the Uxbridge Zoning Bylaw. MOTION SECONDED by Mr. McNulty passed unanimously by VOTE of 3-0-0.

Mr. Blackburn made a MOTION that the Board find that the trailer is an allowable accessory use for the care of horses. MOTION SECONDED by Mr. McNulty passed unanimously by VOTE of 3-0-0.

Mr. Blackburn made a motion To GRANT the APPEAL made by Elizabeth Crawford at 27 Pudding Street and overturn the Uxbridge ZEO's Notices of Violation dated August 17, 2021 and August 26, 2021 based upon the finding that the trailer is an allowable accessory use for the care and keeping of horses. MOTION SECONDED by Mr. McNulty passed unanimously by VOTE of 3-0-0.

Rob Knapik, Chairman  
Thomas McNulty, Member  
Jim Blackburn, Member  
Tariq Fayyad, Associate Member



Uxbridge Town Hall  
21 South Main Street, Room 205  
Uxbridge, MA 01569  
508-278-8600 x2013 p  
508-278-0709 f

## 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

### SIGNATURE PAGE

\_\_\_\_\_  
Rob Knapik, Chairperson

\_\_\_\_\_  
Jim Blackburn, Member

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

\_\_\_\_\_  
Tariq Fayyad, Associate Member

\_\_\_\_\_  
June 21, 2023  
Date

Rob Knapik, Chairman  
Thomas McNulty, Member  
Jim Blackburn, Member  
Tariq Fayyad, Associate Member



Uxbridge Town Hall  
21 South Main Street, Room 205  
Uxbridge, MA 01569  
508-278-8600 x2013 p  
508-278-0709 f

## **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**

**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