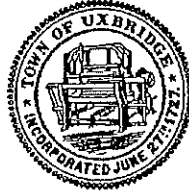


POSTED UXB TOWN CLERK
2022 AUG 11 AM 10:12

Rob Knapik, Chairperson
John Gniadek, Vice Chairperson
Thomas McNulty, 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 #: FY23-01

Zone: Industrial B Zoning District

Applicant: Ronald Parsons, Trustee of 56 Industrial Drive

Property Address: 56 Industrial Drive

Assessor's Reference Map: 40 Parcel: 4659

Worcester Registry of Deeds Book: 61681 Page: 145

VARIANCE GRANTED

August 3, 2022

VOTING MEMBERS: Rob Knapik, John Gniadek, Thomas McNulty

SUBMITTALS:

- Complete Zoning Board of Appeals Application and Fee
- Site Plan for Top Shelf Cannaseurs 56 Industrial Drive, prepared by Hardaway Sziabowski, Wellesley MA, dated 11/11/21 with a final revision date of 7/12/22
- Recorded Property Deed Worcester Registry of Deeds Book 61681 Page 145
- Recorded Property Deed Worcester Registry of Deeds Book 67965 Page 68
- Certified Abutters List dated July 18, 2022

REQUEST: The Applicant, Ronald Parsons, Trustee of 56 Industrial Drive, is seeking a **VARIANCE** for the purpose of installing HVAC and other utilities within the building setback area.

PRESENTATION / FINDINGS OF FACT / DELIBERATIONS:

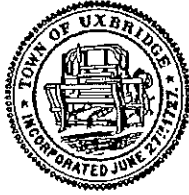
A public hearing on the Application was opened & closed by the Board on August 3, 2022.

Eli Leino, Bernstein Shur Law Firm, represented the Applicant during the public hearing. Scott Foster, legal counsel for TSC RE, LLC owners of the property as of July 26, 2022 also attended the public hearing.

The property is situated on the northerly side of Industrial Drive is shown as 040.0-4659-0000.0 and comprises of approximately 1.71 acres of land. Situated on the property is an approximate 28,468 square foot industrial building to be used as a marijuana grow facility. The parcel's utilities comprise of town sewer and a private well.

Mr. Leino, explained the applicant is coming before the board seeking relief from the siting accessory "structures" as defined in Article X Definitions within the building setback area. The applicant had previously received a building permit based on plans depicting HVAC and other utilities installations submitted based on the understanding that these utility items and concrete pads were not considered structures. A hardship exists because

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the lot shape and building placement do not provide adequate compliant location for the required utilities with out demolishing portions of the existing building and construction and installation has already been completed.

Mr. Leino explained that dumpsters were not considered upon submitting the application and requested the Board make a finding that the dumpsters and their existing concrete pads are not considered structures as they are not affixed to the ground.

Members reviewed the definition of structure as written in Section X of the Uxbridge Zoning Bylaws and agreed that the definition is very broad. Members considered the standard set forth under M.G.L. c. 40A, §10 agreed the shape of the lot and existing structure present a circumstance that created a hardship for the property owner and that it was reasonable to conclude that the granting of the variance would not be a detriment to the public good or derogate from the intent of the bylaw.

There were no comments from members of the public.

MOTIONS / VOTES:

Mr. McNulty made a **MOTION** to close the Public Hearing FY 23-01 for 56 Industrial Drive. **MOTION SECONDED** by Mr. Gniadek passed unanimously by **VOTE** of 3-0-0.

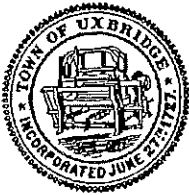
Mr. Gniadek made a **MOTION** that the Zoning Board of Appeals **GRANT** a **VARIANCE** as requested to construct the improvements within the setback, shown on the plan submitted, including a generator, transformer, & CO₂ tank on a finding that said variance may be granted without detriment to the public good and without nullifying or derogating from the purposes and intent of the Uxbridge Zoning Bylaw.

MOTION SECONDED by Mr. McNulty passed unanimously by **VOTE** of 3-0-0.

Mr. Knapik made a **MOTION** that the Uxbridge Zoning Board of Appeals find that the concrete dumpster pad is not a structure as used in Section 10 of the Uxbridge Zoning Bylaw.

MOTIN SECONDED BY Mr. McNulty passed unanimously by **VOTE** of 3-0-0.

Rob Knapik, Chairperson
John Gniadek, Vice Chairperson
Thomas McNulty, Member
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Zoning Board of Appeals DECISION

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SIGNATURE PAGE

Rob Knapik, Chairperson

John Gniadek, Vice Chairperson

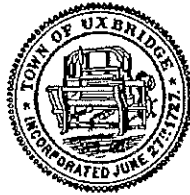
Thomas McNulty, Member

Jim Blackburn, Associate Member

August 3, 2022

Date

Rob Knapik, Chairperson
John Gniadek, Vice Chairperson
Thomas McNulty, Member
Jim Blackburn, Associate Member



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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. ****