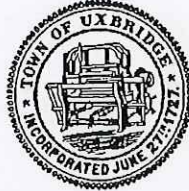


Rob Knapik, Chairperson
John Gniadek, Vice Chairperson
Thomas McNulty, Member
Jim Blackburn, Associate Member



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

Zoning Board of Appeals DECISION

ZBA Case #: FY23-02
Zone: Residential B Zoning District
Applicant: Jane White
Property Address: 376 Hartford Avenue East
Assessor's Reference Map: 07 Parcel: 2978
Worcester Registry of Deeds Book: 65173 Page: 22

October 5, 2022

VOTING MEMBERS: Rob Knapik, Jim Blackburn, Thomas McNulty

SUBMITTALS:

- Complete Zoning Board of Appeals Application and Fee
- Certified Abutters List dated July 18, 2022
- Plot Plan for 376 East Hartford Avenue Uxbridge, MA, prepared by Land Planning Inc., dated December 8, 2020
- Property Deed for 376 Hartford Avenue East
- Building Permit Denial letter dated August 4, 2022

REQUEST: The Applicant is **APPEALING** a determination of the Building Inspector to allow for construction of a new duplex dwelling prior to the demolition of the existing primary dwelling on the property.

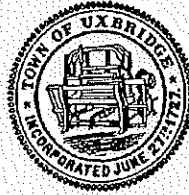
PRESENTATION / FINDINGS OF FACT / DELIBERATIONS:

A public hearing on the Application was opened & closed by the Board on October 5, 2022.

The property owners Jane White and Mark Bell attended the public hearing. Mr. Bell stated that he and his mother Jane White approached the Uxbridge Building Inspector during 2020 for guidance on replacing the primary residence with a newly constructed duplex on the property. They explained to him Ms. White's daughter would like to occupy the existing residence until the duplex is constructed at which time Ms. White and her daughter would move into the new duplex and tear down the existing dwelling. They were informed that this was permissible thorough the building and demolition permit process.

After securing a contractor, which took more time than usual due to the pandemic, an application for a building permit was filed by their contractor on August 2, 2022. It was denied by the town's Interim Building Inspector on August 4, 2020 for noncompliance with the Uxbridge Zoning Bylaw Article IV, Section 400-13 which states only one dwelling and private garage shall be erected or maintained on a lot in any residential district. The denial stated Ms. White could appeal the decision to the Zoning Board of Appeals.

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



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Zoning Board of Appeals DECISION

ZBA Case #: **FY23-02**

Zone: **Residential B Zoning District**

Applicant: **Jane White**

Property Address: **376 Hartford Avenue East**

Assessor's Reference Map: **07 Parcel: 2978**

Worcester Registry of Deeds Book: **65173 Page: 22**

Jay Talerma, Uxbridge Town Counsel, attended the meeting at the request of the Zoning Board Chairperson to advise on the authority of the Zoning Board has to grant the relief requested. He explained the Board essentially acts as the Building Inspector but with the ability to impose conditions which the Building Inspector does not. Mr. Talerma said the Board's decision takes on the character of a Special Permit in that the conditions are enforceable. He offered the example of the Board partially upholding, partially reversing the determination of the Building Inspector provided that the Applicant be constrained to comply with a set of conditions such as no occupancy permit shall be issued for the new unit until the original unit is demolished with a specified timeframe.

Board members reviewed the concern being a potential cost to the town to enforce the Bylaw if the Applicant would decide not to take down the existing dwelling. They agreed the Applicant's request appeared to be altruistic and not any artifice or effort to circumvent the bylaw. There was discussion with the Applicant regarding fair and reasonable timeframes for construction of the new structure and the demolition of the existing dwelling. It was also explained that the occupancy permit, won't be given until such time as the other building is torn down, and that if neither are requested after completion of the building, then the new construction would have to come down. The Applicant's were amenable to the conditions discussed.

There were no comments from members of the public.

MOTIONS / VOTES:

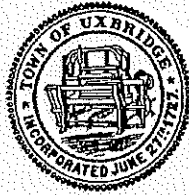
Mr. McNulty made a **MOTION** to close the Public Hearing FY 23-02 for 376 Hartford Avenue East. **MOTION SECONDED** by Mr. Blackburn passed unanimously by **VOTE** of 3-0-0.

Mr. McNulty made a **MOTION** to **OVERTURN** the determination of the Building Inspector subject to the following conditions:

- 1) Proposed construction to be completed within eighteen months of issuance of the building permit
- 2) The applicant will submit to routine inspections of the property
- 3) The occupancy permit for the proposed dwelling shall not be issued until the existing dwelling is demolished pursuant to a valid demolition permit
- 4) Construction of the proposed dwelling is not completed within eighteen months from the date of issuance of the building permit, as may be extended by the board, then the applicant will be required to demolish any of the new construction

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

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

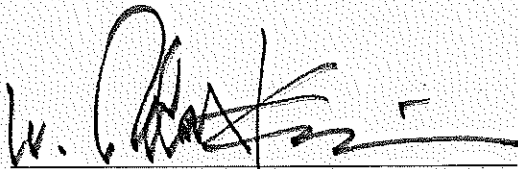


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Zoning Board of Appeals DECISION

ZBA Case #: FY23-02
Zone: Residential B Zoning District
Applicant: Jane White
Property Address: 376 Hartford Avenue East
Assessor's Reference Map: 07 Parcel: 2978
Worcester Registry of Deeds Book: 65173 Page: 22

SIGNATURE PAGE


Rob Knapik, Chairperson

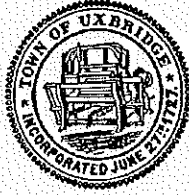
John Gniadek, Vice Chairperson


Thomas McNulty, Member


Jim Blackburn, Associate Member

October 5, 2022
Date

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



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Zoning Board of Appeals DECISION

ZBA Case #: FY23-02
Zone: Residential B Zoning District
Applicant: Jane White
Property Address: 376 Hartford Avenue East
Assessor's Reference Map: 07 Parcel: 2978
Worcester Registry of Deeds Book: 65173 Page: 22

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. ****