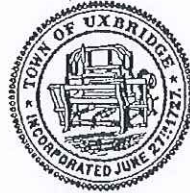


Rob Knapik, Chairperson
Thomas McNulty, Member
Jim Blackburn, Member
Tariq Fayyad, Associate Member



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

Zoning Board of Appeals DECISION

ZBA Case #: FY23-12

Zone: Residential A Zoning District

Applicant: Brenda Manning and Mary Fournier

Property Address: 56 Homeward Ave

Assessor's Reference Map: 18A Parcel: 1452

Worcester Registry of Deeds Book: 66013 Page: 393

REC'D UXB TOWN CLERK
2023 MAY 16 PM 12:51

VARIANCE GRANTED

May 3, 2023

VOTING MEMBERS: Jim Blackburn, Thomas McNulty, Tariq Fayyad

SUBMITTALS:

- Complete Zoning Board of Appeals Application and Fee received April 10, 2023
- Certified Abutters List dated March 29, 2023
- Property Deed recorded in the Worcester Registry of Deeds Book 66013 Page 393
- Existing Plan of Land in Uxbridge Massachusetts prepared for Peter Feddema by Andrews Survey and Engineering, Inc., dated August 22, 1994
- Proposed Plan of Land located at 56 Homeward Avenue, prepared by Land Planning, Inc. Job No. B2793

REQUEST: Brenda Manning and Mary Fournier (the "Applicants"), are seeking a **VARIANCE** of 8.64 inches from the 30-foot frontage requirement set forth in the Uxbridge Zoning Bylaw Section 400-32 Retreat Lots, Subsection I. Purpose, Item B.

PRESENTATION / FINDINGS OF FACT / DELIBERATIONS:

A duly posted public hearing was opened & closed on May 3, 2023. The Applicants were represented by Attorney Mark Wickstrom, Wickstrom Morse, LLP.

Attorney Wickstrom explained the Applicants, currently residing at 56 Homeward Avenue, would like to develop their property into three separate lots, two new lots and one retreat lot containing the existing dwelling and accessory structures. The parcel has enough frontage and acreage for two lots and a retreat lot except for 8.64 inches of frontage. The reason the retreat lot was chosen for the variance request was so Lot 1 and Lot 2 would comply with the dimensional requirements for the Residential A Zone of the Uxbridge Zoning Bylaw to support a retreat lot which requires the issuance of a special permit from the Uxbridge Planning Board.

The Property is situated on the north side of Homeward Avenue, is shown as Uxbridge Assessor's Parcel ID 018.A-1452-0000.0, and comprises approximately 3.44 acres of land. According to the records of Worcester

Rob Knapik, Chairperson
Thomas McNulty, Member
Jim Blackburn, Member
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Zoning Board of Appeals DECISION

ZBA Case #: FY23-12

Zone: **Residential A Zoning District**

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Worcester Registry of Deeds Book: **66013 Page: 393**

District Registry of Deeds (the "Registry"), the Property was acquired by Brenda Manning and Mary Fournier by deed dated September 8, 2021 and recorded with the Registry in Deed Book 66013, Page 393. Situated on the Property is one single-family dwelling, two detached garages, a shed and related driveways and utilities. The Property is serviced by public water and sewer. Wetlands are present in the north westerly corner of the property.

The shape of the existing lot was created in 1986 when the Massachusetts State Highway DPW re-laid out Homeward Avenue and performed some takings of land, including a piece of land owned by the prior owner (the Applicants' mother). The new layout included two strait pieces of frontage connected by a zig-zag piece of frontage that is perpendicular to the road creating an odd shaped lot.

Attorney Wickstrom argued the proposed plan was the highest and best use for the property and most consistent with the neighborhood. If the variance were not granted, in order to make up for the financial loss, the Applicants would have to create Lots 1 and 2 as a combined lot with development limited to one townhouse-style apartment building with four units which is allowed by right in the Residential A Zone.

The Board evaluated the standards and criteria for the issuance of a Variance as set forth in MGL Chapter 40A Section 10. Members found the shape of the lot together with the presence of wetlands are circumstances that could lead to a financial hardship for the Applicants. They agreed that proposal would not be detrimental to the neighborhood particularly because the proposed lots only have enough area for a single-family dwelling on each lot. Members took into consideration whether they had the authority to issue a variance for a lot that has not yet been created, abutter questions and potential conditions.

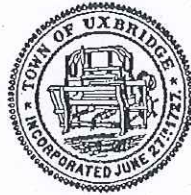
MOTIONS / VOTES:

Mr. McNulty made a **MOTION** to close the Public Hearing FY 23-12 for 56 Homeward Avenue. **MOTION SECONDED** by Mr. Fayyad passed unanimously by **VOTE** of 3-0-0.

Mr. McNulty made a **MOTION** that the Zoning Board of Appeals **GRANT** the **VARIANCE** as presented in FY23-12 56 Homeward Avenue on a finding that there is a hardship related to the shape of the lot due to the road layout, wetlands present and the location of utilities and that the 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. Fayyad passed unanimously by **VOTE** of 3-0-0.

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



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Zoning Board of Appeals DECISION

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SIGNATURE PAGE

Rob Knapik, Chairperson

Jim Blackburn, Member

Thomas McNulty, Member

Tariq Fayyad, Associate Member

May 16, 2023
Date

Rob Knapik, Chairperson
Thomas McNulty, 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 Cote 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 BE ISSUED UNTIL THE PERMIT IS RECORDED. ****