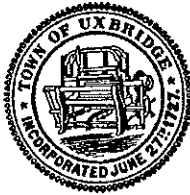


Rob Knapik, Member
John Gniadek, Member
Joseph Frisk, Alternate Member



Uxbridge Town Hall
21 South Main Street, Room 205
Uxbridge, MA 01569
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**TOWN OF UXBRIDGE
ZONING BOARD OF APPEALS**

MEETING MINUTES: Wednesday, January 3, 2018

48 8/14/2018
Received by
Uxbridge
Town Clerk

Present: Rob Knapik, John Gniadek, Joe Frisk (participated remotely) and Administrative Assistant Melissa Shelley

It being approximately 6:00 pm, the meeting being properly posted, duly called, and a quorum being present, the meeting was called to order by the Chair, who led the Pledge of Allegiance.

I. CALL TO ORDER

1. Mr. Knapik announced the published agenda would be taken out of order and the Executive Session portion would take place at the end of the meeting.
2. Board Reorganization
MOTION: Mr. Gniadek moved to nominate Rob Knapik as the Chairman of the Zoning Board of Appeals for Fiscal Year 2018. Mr. Frisk Seconded and the motion passed unanimously by roll call vote of 3-0-0 (Joe Frisk – aye, John Gniadek – aye, Rob Knapik – aye).

II. PUBLIC HEARINGS

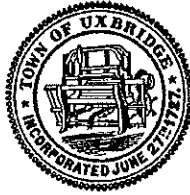
1. **FY18-04:** 20-22 Hecla Street, Route 85 Realty Corporation, Owner/Applicant, is seeking a SPECIAL PERMIT pursuant to Section 400-12 C (2) to alter and extend a pre-existing non-confirming structure. The structure will be substantially changed by way of an addition. Property is shown on the Town of Uxbridge Assessor's Map 6A Parcel 29 and 46 and described in a deed recorded at the Worcester Registry of Deeds Book 57804 Page 53 and is located in Residential A Zone.

Discussion: Attorney Joseph Antonellis appeared and spoke on behalf of the applicant Route 85 Realty Corporation. John Nenart, the Project and Supervising Engineer also attended and presented information. For some time the existing structure on the property has been occupied as multi-family with two (2) two-bedroom units and one (1) one-bedroom unit. The petition is to rehabilitate the existing home from a three (3) to two (2) family and add a brand new structure connected to the existing structure. The unique aspect is that the new house will be 100% handicap accessible, specifically designed to meet the unique needs of the intended purchaser. The driveway and access to the existing structure will be relocated to Kennedy Street with a parking area behind the building. Access and parking to the new handicap unit will be off Hecla Street to maximize the availability, approachability and usability of the new structure. Special attention was made during the design to ensure there is no need to request a variance for any purpose for either structure. The intent is for Route 85 Realty to be involved in the restoration of the existing structure and the construction of the new structure, and then transfer ownership to Mr. Fayyad providing him with the ability to continue to live and earn income in Uxbridge.

Mr. Antonellis stated he believes the application fits within the confines of the Uxbridge Zoning Bylaw relative to pre-existing uses. They are remodeling and revitalizing the three (3) family use of the property not adding any additional family use. He noted the area is conducive to multifamily living as there is a condominium complex directly across the street and properties on Kennedy Street have been transformed to multi-family residences.

Mr. Antonellis also summarized the Special Permit criteria outlined in Section 400-50 (B) of the Uxbridge Zoning Bylaws as it relates to the proposed project:

1. social, economic, or community needs which are served by the proposal – *it is serving the*



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- needs of a handicapped individual in our community*
2. traffic flow and safety, including parking and loading – *should not to be affected by the addition of a 1 residential unit on a property that was already serving multiple families*
 3. adequacy of utilities and other public services - *current services are adequate*
 4. neighborhood character and social structures - *the rehabilitation of the existing structure will have a positive impact on the neighborhood*
 5. impacts on the natural environment - *no wetlands, vernal pools or other environmental sensitive areas on the property*
 6. potential fiscal impact, including impact on town services, tax base and employment – *values should be increased*

Mr. Lench, Uxbridge Building Inspector, provided the following two comments (i) the project is a substantial alteration/expansion to the building and (ii) the area of the lot is 24,372 sq. ft. and our Zoning bylaws require 20,000 plus 8,000 sq. ft. for each additional unit so it is a non-conforming use as it sits with a shortage of approximately 3,628 sq. ft. of area. He recommended that adhering to the architectural plans be considered as a condition.

One abutter expressed concern for setting a precedence for the ability to add separate structure to a property by tethering it to an existing foundation. Mr. Knapik responded Boards are not bound by precedence – each application and property unique. Has been done before. If this wasn't unique they probably could connect it.

MOTION / VOTE:

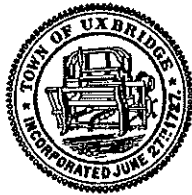
Mr. Gniadek made a **MOTION** to close the Public Hearing FY 18-04 for 22 Hecla Street. **MOTION SECONDED** by Mr. Frisk passed unanimously by roll call vote of 3-0-0 (John Gniadek – aye, Rob Knapik – aye, Joe Frisk – aye).

The Board deliberated and agreed that the existing non-conforming use does not substantially change, that the petition, as presented, complies well with the applicable section of the Uxbridge zoning bylaw as well as the special permit requirements. Further, they found that the permitting the request will not impose any detriment to the neighborhood.

Mr. Frisk made a **MOTION** that the Zoning board of appeals approve a special permit request for FY18-04 for 20-22 Hecla Street pursuant to Section 400-12C to alter and extend a pre-existing nonconforming structure within the existing three family use, as the board does not find this request as substantially more detrimental than the existing non-conformance use with regards to the required square footage with the following conditions.

1. Building permit application must adhere to the submitted architecture plan
2. Limit to the existing use of three family units
3. Proposed structure comply with all applicable zoning setback requirements

MOTION SECONDED by Mr. Gniadek and the motion passed unanimously by roll call vote of 3-0-0. (John Gniadek – aye, Rob Knapik – aye, Joe Frisk – aye).



**TOWN OF UXBRIDGE
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2. **FY18-05: 50 South Main Street, Robert Kiley, Owner/Applicant**, is seeking a **SPECIAL PERMIT DETERMINATION** that the current use of the property as a four (4) unit dwelling is an allowed pre-existing, non-conforming use or in the alternative a finding under 40A Section 6 that the use is not substantially more detrimental than the prior pre-existing, non-conforming use. Property is shown on the Town of Uxbridge Assessor's Map **25 Parcel 987** and described in a deed recorded at the Worcester Registry of Deeds Book **45277 Page 304** and is located in **Business Zone**.

Discussion: Attorney Mark Wickstrom appeared and spoke on behalf of the applicant. He explained, there is a pre-existing, non-conforming residential use of this property as a multifamily dwelling for many years, well prior to the adoption of the zoning bylaws. There are currently four dwelling units at the premises. Unfortunately, it is unclear from the Town records when the property was first used for four dwelling units as town records were destroyed in a flood at Town Hall. This petition is to confirm the legal use as a four-family dwelling.

Mr. Wickstrom provided the following background information to the Board. Mr. Kiley has owned and occupied the property since 2009 and occupies it with his family. When he bought the property, it had the same four residential units that exist today. Mr. Kiley has pulled work permits since his ownership, notably for re-siding the entire structure and more recently pulling permits to upgrade the electrical system to include four separate electrical services and a fifth landlord service. Mr. Kiley encountered no problems obtaining those permits and performing the work upon the four-family dwelling.

In the process of recently trying to sell the property, Mr. Kiley was informed by the Buyer's attorney that there were discrepancies in town records as to how many units were at the property, and that this would hold up the sale. In confirming the loss of records by a flood in 2003, the Building Department was unable to confirm when the four dwelling-unit use began. It appears that the work done to the rear unit was approximately done in the 1980's, although it is unclear if that work added a fourth unit or merely modernized it. Mr. Kiley was informed by the building department that he should apply for a special permit to legalize the current use as a four-unit dwelling.

Mr. Wickstrom requested that the Board allow the petition by either finding 1) that the use of the premises as a four-family residential dwelling pre-exists the zoning bylaws as a legal pre-existing, non-conforming use and thereby is a protected "grandfathered" use; OR 2) that the use of the property as a pre-existing non-conforming residential dwelling is extended to no more than four dwelling units under Chapter 40A section 6 and under Uxbridge Zoning Bylaw Section 400-12.

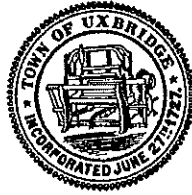
The petitioner requested that the Board find that such extension to four units is not more detrimental to the neighborhood than the prior pre-existing, non-conforming use. As evidence for such a finding, the Board takes note that the current use as a four-family dwelling unit has continued uninterrupted for at least thirty years and possibly many more, and that the substantial work to the property has made it an improvement, not a detriment to the neighborhood, and the surrounding property values.

There were no abutter comments for the hearing.

MOTION / VOTE:

Mr. Frisk made a **MOTION** to close the Public Hearing FY 18-05 for 50 South Main Street. **MOTION SECONDED** by Mr. Gniadek passed unanimously by roll call vote of 3-0-0 (John Gniadek – aye, Rob Knapik – aye, Joe Frisk – aye).

Rob Knapik, Member
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During deliberations, the Board agreed the evidence submitted supports a finding that this has been a longstanding non-conforming use as a four (4) family dwelling predating the zoning bylaws and as such, pursuant to 40A section 6, it is not detrimental to the neighborhood.

Mr. Frisk made a **MOTION** that the Board finds for FY18-05 at 50 South Main Street under 40A section 6, the use of the property as a four family residential dwelling pre-exists the zoning by-laws as a legal pre-existing, non-conforming use and is not more detrimental to the neighborhood based on the information provided to the board and therefore is protected as a "grandfathered" use. **MOTION SECONDED** by Mr. Gniadek passed unanimously by roll call vote of 3-0-0 (John Gniadek – aye, Rob Knapik – aye, Joe Frisk – aye).

III. MINUTES/MAIL/INVOICES

1. Review 12/18/17 Meeting Minutes

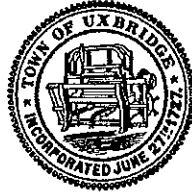
MOTION: Mr. Frisk moved to approve the ZBA December 18th meeting minutes as written. Mr. Gniadek seconded and the motion passed unanimously by roll call vote of 3-0-0. (John Gniadek – aye, Rob Knapik – aye, Joe Frisk – aye).

IV. ANY OTHER BUSINESS, which may lawfully come before the Board.

V. ADJOURNMENT: NEXT ZBA MEETING, WEDNESDAY, February 7, 2018

MOTION: Mr. Knapik moved to adjourn the January 3, 2018 ZBA meeting and move into Executive Session. Mr. Gniadek seconded and the motion passed unanimously by roll call vote of 3-0-0. (John Gniadek – aye, Rob Knapik – aye, Joe Frisk – aye).

Rob Knapik, Member
John Gniadek, Member
Joseph Frisk, Alternate Member

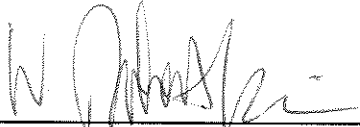


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SIGNATURES:



Rob Knapik, Member



John Gniadek, Member

Joe Frisk, Alternate Member



Date