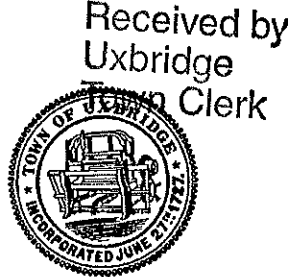


Rob Knapik, Member  
John Gniadek, Member  
Mark Kaferlein, Member  
Thomas McNulty, Associate Member



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

## TOWN OF UXBRIDGE ZONING BOARD OF APPEALS

MEETING MINUTES: Wednesday, October 3, 2018

**Present:** Rob Knapik, Chair, Members John Gniadek, and Thomas McNulty and Administrator Melissa Shelley

### I CALL TO ORDER

It being approximately 6:00 pm, the meeting duly posted and a quorum present the chair called the meeting to order and led the pledge of allegiance.

### II PUBLIC HEARINGS

1. **FY19-03: 0 Quaker Street, Richard Hurteau**, Owner/Applicant, is seeking a **VARIANCE** to allow non-contiguous frontage to meet the 300' frontage dimensional requirement in Uxbridge. The property is located in an **Agricultural Zone**, is shown on the Town of Uxbridge Assessor's **Map 51** and **Parcel 2341**, and described in a deed recorded at the Worcester Registry of Deeds **Book 17112** and **Page 323**.

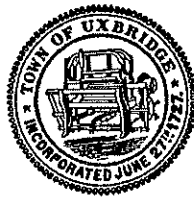
**Discussion:** Mark Wickstrom, of Wickstrom Morse LLP, represented the Applicant during the hearing. The property at 0 Quaker Street is large irregular shaped lot located on the boundary line and within the towns of both Millville and Uxbridge. The entire frontage for the lot is located in the Town of Millville: 200 feet of the frontage is on Ronden Road (#8) and 176 feet of the frontage is on Quaker Street, as depicted on plans submitted. Attorney Wickstrom stated the following reasons that the application met criteria to grant a Variance (i) the irregular shape of the lot; (ii) there are wetlands on the property and (iii) that the property is located within two towns and must meet the zoning requirements of each. The granting of the Variance would allow Mr. Hurteau to sell off a portion of the lot with an existing multi family home that would otherwise be unmarketable.

The Uxbridge Planning Board issued a Special Permit for a 3-megawatt solar array for this property on August 8, 2018 with the following condition related to frontage: *6. The Millville parcels shall not be sold if doing so would make the project out of compliance with Uxbridge's frontage requirements. If at any time there is inadequate frontage among the 3 parcels in the Town of Millville, Map 124 Lot 9.4, Map 125 Lot 13, Map 125 Lot 14, the Special Permit will be null and void. Frontage must be contiguous.* Attorney Knapik asked if the condition was the reason for the request and Attorney Wickstrom said it was and confirmed the access point to the solar field will be located on 8 Ronden Road. He also mentioned both Millville and Uxbridge Planning boards were involved in permitting this project.

Larry Lench, Uxbridge Building Inspector, reported he had been to the property, that there is an existing antenna array and said did not have any objections to the request. Eli Lavidiere, Uxbridge Planning Board, also attended to answer questions. No abutters attended the hearing or provided comment.

The Board agreed with the Planning Board's review process, their consideration for access to the solar field and that they were unable to legally reduce the frontage requirements. They referred to page 70 of the Uxbridge Zoning Bylaw where Frontage is defined as "lot front of". Members also agreed that granting the Variance would not create a non-conformity in Millville because the frontage requirement is 200 ft. Finally, they agreed the Uxbridge frontage requirement of 300 feet is met with the combined amount on Ronden Road (200 ft.) and Quaker Street (176 ft.).

Rob Knapik, Member  
John Gniadek, Member  
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Members recommended the option of returning to the Uxbridge Planning Board to seek a modification that would either eliminate or modify condition number six (6). The Board found that the Application satisfied the conditions for the grant of a Variance set forth in G.L. c. 40A, §10.

#### **Motion:**

Mr. McNulty made a motion to close the Public Hearing FY 19-03 for 0 Quaker Street. 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 the relief as requested in the application FY19-03 for 0 Quaker Street based on the criteria set forth in the Application and presentation. Motion seconded by McNulty, and the motion passed unanimously by vote of 3-0-0.

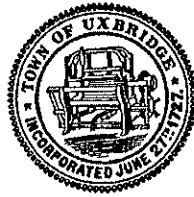
2. **FY19-04: 66 Elm Street, Mark Lavalee, Owner/Applicant** is seeking front setback **VARIANCE** to allow the construction of a detached garage. The property is located in a **Residential C Zone**, is shown on the Town of Uxbridge Assessor's **Map 12C** and **Parcel 2654** and described in a deed recorded at the Worcester Registry of Deeds **Book 59168 Page 376**.

**Discussion:** Byron Andrews, Andrew's Survey and Engineering, Inc., attended on behalf of the applicant. Mr. Andrews explained the property is a pre-existing non-conforming lot. He stated the location was chosen as far from Elm Street as possible without encroaching on other setbacks or the sewer easement on the lot. He explained during review of the plan that the proposed garage would be 11 feet from the side setback, 17 feet from the rear setback, and the 57.5 feet from the front setback.

Larry Lench, Uxbridge Building Inspector, attended and provided a comment that the proposed garage abuts a garage on the abutting property (72 Elm). Mr. Lench also recommended a condition that the garage is used only for personal use and not a business operation. Board members asked Mr. Andrews some questions related to position and whether other locations were considered and whether there would be a driveway installed. He responded that yes there will be a driveway and that this was the only logical spot due to the easement and the proximity to Hartford Ave. The homeowner, TJ Lavallee, spoke in favor of the petition because they have extra cars that should be garaged so they are not an eyesore in the driveway.

Attorney Henry J. Lane, with Lane and Hamer, P.C, appeared on behalf of Sally R. Staples, the abutter at 72 Elm Street, in opposition to the petition. He stated the applicant is asking to impose significant additional activity to the side yard on an already undersized lot where it will have an impact on the neighbor. He mentioned there is already a two-car garaged on the property and adding another two-car garage is overburdening and increasing the density unreasonably. He argued that the entire building would need a Variance and relief should not be granted because the Board does not have the no authority to allow a freestanding additional building on an undersized lot. He further argued that the application does not meet any of the Variance criteria in that there is nothing unique about soil conditions, topography or shape of the lot and that the size of the property does not constitute a hardship. In summary, he suggested the Board is without authority to issue a Special Permit or any other relief for the construction of the proposed detached garage (an accessory building) under the Uxbridge Zoning Bylaw.

Rob Knapik, Member  
John Gniadek, Member  
Mark Kaferlein, Member  
Thomas McNulty, Associate Member



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## TOWN OF UXBRIDGE ZONING BOARD OF APPEALS

### MEETING MINUTES: Wednesday, October 3, 2018

There was discussion with the applicant and the Building Inspector as to what type of zoning relief is required to authorize construction of the proposed garage as shown on the Zoning Plan - a Variance, a Special Permit, or both a Variance and a Special Permit.

The Applicant requested that the Board continue the public hearing to allow the Applicant and the Board the opportunity to determine whether a Variance, a Special Permit, both a Variance and a Special Permit or some other zoning relief is required to authorize construction of the proposed garage as shown on the Zoning Plan.

**Motion:** Mr. McNulty made a motion to continue Public Hearing FY19-04 for 66 Elm Street to the next meeting of the Zoning Board of Appeals. Mr. Gniadek seconded, and the motion passed by vote of 3-0-0.

3. **FY19-05: 51 Pinecrest Road, Nancy Iadarola, Owner and Kevin Allen Carpentry, Applicant are seeking a SPECIAL PERMIT OR VARIANCE** to allow for the construction of a detached garage outside the required setbacks on a pre-existing, non-conforming lot. The property is located in a **Residential B Zone**, is shown on the Town of Uxbridge Assessor's **Map 13** and **Parcel 1746.A** and described in a deed recorded at the Worcester Registry of Deeds **Book 26060 Page 185**.

**Discussion:** Kevin Allen, of Kevin Allen Carpentry, Inc, represented the applicant during the hearing. Mr. Allen explained the original proposed location was within the required setbacks and they were issued a building permit. However, during preparations they encountered ledge and large boulders, so they shifted the location slightly forward, closer to the driveway. The new location is set back 43.6 feet from the front and the required front setback requirement for an accessory structure in this zone is 65 feet. It was noted that there is already a non-conformity on the lot in that the primary structure, a duplex, is set back 39.8 feet. There is an existing one-car garage underneath the duplex but is not large enough to store the applicant's automobile and yard tools.

Larry Lench, Uxbridge Building Inspector attended and reported he visited the property and that the existing driveway is on the setback line and slopes downhill. He confirmed the presence of ledge and thought this was the best option to locate the garage. The abutter in the attached duplex attended and spoke in favor of the project.

The board agreed there was a hardship owing to the soil conditions, the ledge, on the property. Additionally, there was discussion on whether a Special Permit was needed but it was decided a Variance would be sufficient.

No abutters attended the hearing.

**Motion:**

Mr. McNulty made a motion to close the Public Hearing FY 19-05 for 51 Pinecrest Road. Motion seconded by Mr. Gniadek and passed unanimously by vote of 3-0-0.

Rob Knapik, Member  
John Gniadek, Member  
Mark Kaferlein, Member  
Thomas McNulty, Associate Member



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## TOWN OF UXBRIDGE ZONING BOARD OF APPEALS

### MEETING MINUTES: Wednesday, October 3, 2018

Mr. Gniadek made a motion that the Zoning Board of Appeals grant the Variance to construct a 12'x24' detached garage as detailed on the plan submitted. Motion seconded by McNulty and passed unanimously by vote of 3-0-0.

#### III MINUTES/MAIL/INVOICES

##### 1. Review of September 5, 2018 ZBA Meeting Minutes

**Motion:** Mr. Gniadek moved to approve the September 5, 2018 meeting minutes of the Zoning Board of Appeals as written. Mr. McNulty seconded, and the motion passed by vote of 3-0-0.

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


1. Attorney Knapik presented Board members with a draft of 2 sets of Rules and Regulations for the Zoning Board of Appeals and asked for their review and input. He explained that the Zoning bylaws can only be amended at Town Meeting but the statute authorizes Zoning Boards to adopt rules and regulations. Atty. Knapik said his intent in proposing the regulations is: for the Board to have clarification on large complex applications; what the Board is authorized to do; clarify and provide applicants, in advance, the meeting procedural and submittal requirements. He explained the second draft is concerning Comprehensive Permits, which can be much more complex in addition to the Zoning Board being charged with acting as the Planning Board, Conservation Commission and Board of Health. Having rules in place would allow the Board to authorize Peer Review consultants. The other members agreed with the principle and to review the drafts and bring comments to the next meeting.

#### V ADJOURNMENT: NEXT ZBA MEETING, Wednesday, November 3, 2018

**MOTION:** Mr. McNulty moved to adjourn the October 3rd meeting of the ZBA. Mr. Gniadek seconded and the motion passed by vote of 3-0-0.

#### SIGNATURES:

  
\_\_\_\_\_  
Rob Knapik, Member

  
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Mark Kaferlein, Member

  
\_\_\_\_\_  
John Gniadek, Member

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

\_\_\_\_\_  
Date