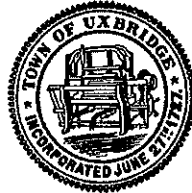


Rob Knapik, Chairman
John Gniadek, Vice Chairman
Mark Kaferlein, Clerk
Thomas McNulty, Associate
Member
Jim Blackburn, Associate Member



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

**TOWN OF UXBRIDGE
ZONING BOARD OF APPEALS**

POSTED UXB TOWN CLERK
2022 JAN 5 10:12A

MEETING MINUTES: Wednesday, November 3, 2021

Present: Rob Knapik, John Gniadek, Thomas McNulty, Jim Blackburn and Administrator Melissa Shelley

CALL TO ORDER:

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 Chairperson.

PUBLIC HEARINGS:

1. **FY22-02:** The owner Elizabeth Barry Crawford of **27 Pudding Street** is seeking to **APPEAL** a Notice of Violation issued by the Uxbridge Zoning Enforcement Officer dated August 17, 2021. The property is located in both the **Agricultural and Residential C Zoning District**. It is shown on the Town of Uxbridge Assessor's **Map 07, Parcel 643** and described in a deed recorded at the Worcester Registry of Deeds in **Book 57955 and Page 70**. (Public hearing opened 10/6/21)

The Chairperson provided a brief recap of the appeal of the adverse decision of the Building Inspector and what was discussed during the prior hearing. Because there appeared to be a possibility that both parties most at interest may be able to resolve the issue and the Board agreed to continue the public hearing so they could have the opportunity to discuss and potentially come up with mutually satisfactory solution. If they could, the idea being that they would bring that back to the Board and if was reasonable then the Board could embody that in some sort of decision. If there was not an ability to resolve it, then the Board would act on the appeal before them.

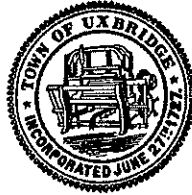
Appellant Presentation: Elizabeth Crawford, the property owner and appellant, explained while communications with the abutter and their counsel were not generally successful she offered to extend their privacy fence as well as plant fast growing Arborvitae that would be 6-7 feet upon arrival.

Abutter Comments: Robert Finnegan, represented the abutters at 15 Pudding Street during the hearing. Mr. Finnegan similarly stated that communication with Ms. Crawford and her counsel was generally sporadic, unsuccessful, and unproductive, and failed to result in a mutually satisfactory resolution regarding the trailer. In fact, Abutters concluded that they did not expect to be able to resolve the matter.

Board Discussion: The Chairperson inquired of town counsel the options the Board has and read his response: that under the statute, a Board of Appeals may make orders or decisions, reverse or affirm in whole or in part, or modify any order or decision and to that end shall have all powers of the officer, from whom the appeal is taken, and main issue or direct the issuance of a permit. The board is acting as the building inspector and can affirm overturn, or modify that the notice, if three parties have a remedy that is legally permitted the board can issue a decision by accommodating that remedy in a decision that finds that there is a violation, but overturns the order subject to compliance with the stated remedy. Similarly, the board can uphold the order, but defer enforcement subject to compliance with the remedy. What the board cannot do however, is fashion or remedy that itself is not compliant with zoning.

Members agreed that they were left with the binary decision of upholding or overturning the Building Inspector's notice because the parties could not agree on a remedy.

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Appellant Response: Ms. Crawford reiterated that her trailer is registered, she does not consider it to be a junk car and there was nothing she could identify in the Zoning Bylaw indicated that it is any different than an enclosed trailer for horse or camper (none of which are called out in Section 400-22).

Public Comment: Mike Potaski, 24 Church Street implied the Appellant is operating an unpermitted auto restoration and repair facility at the location and expressed concerns for the potential of oil/petroleum to enter the environment.

Members acknowledged the possibility of activities going on on the property, that may have independent significance, but did not think had relevance on this hearing.

Ms. Crawford responded that they are avid car collectors which she described during the previous hearing.

Board Discussion: The Board was unable to determine whether, in this instance, the fact that the trailer is registered could answer the question whether the trailer violates Section 400-22 of the Bylaw. The Board was also of varied opinion whether or not the keeping of two horses alone, without any intent to breed horses, constitutes "agriculture", or whether or not the fact that a portion of the Property is situated within an agricultural zoning district is relevant to whether the trailer violates Section 400-22 of the Bylaw. While some members of the Board acknowledged that the Bylaw lacked specificity regarding keeping trailers of the same type as Appellant, other members did not necessarily disagree with the ZEO's interpretation of the Bylaw regarding such trailers.

The Board determined that to overturn the adverse determination of the ZEO as set forth in the First Notice and the Second Notice, the Board must determine that ZEO determination is based on a legally untenable ground, or is unreasonable, capricious or arbitrary.

Motions:

Mr. Blackburn made a motion to close the Public Hearing for FY22-02 27 Pudding Street. Motion seconded by Mr. Gniadek passed unanimously by vote of 3-0-0.

Mr. Blackburn made a motion that the Board overturn the ZEO's First Notice. Motion Seconded by Mr. Gniadek failed by vote of 2-1-0 (Gniadek – aye, Blackburn – aye, Knapik – nay)

Mr. Knapik made a motion that the Board uphold the First Notice. Motion not seconded.

Because the Board did not overturn the adverse determination of the ZEO as set forth in the First Notice and the Second Notice, the adverse determination of the ZEO as set forth in the First Notice and the Second Notice stands, and the trailer must be removed.

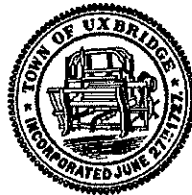
ADMINISTRATIVE:

1. Meeting Minutes Review: 9/1/21 and 10/6/21

Motion: Mr. McNulty made a motion to approve the 9/1/21 ZBA meeting minutes as written. Mr. Gniadek seconded and the motion passed unanimously by vote of 4-0-0.

Motion: Mr. McNulty made a motion to approve the 10/6/21 ZBA meeting minutes as written. Mr. Gniadek seconded and the motion passed unanimously by vote of 4-0-0.

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**TOWN OF UXBRIDGE
ZONING BOARD OF APPEALS**

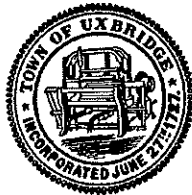
MEETING MINUTES: Wednesday, November 3, 2021

ANY OTHER BUSINESS, which may lawfully come before the Board:

ADJOURNMENT: Next Regularly Scheduled ZBA Meeting, Wednesday December 1, 2022

Motion: Mr. McNulty made a motion to adjourn the 11/3/21 meeting of the Zoning Board of Appeals. Mr. Gniadek seconded, and the motion passed unanimously by vote of 4-0-0.

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**TOWN OF UXBRIDGE
ZONING BOARD OF APPEALS**

MEETING MINUTES: Wednesday, November 3, 2021

Respectfully Submitted,
Melissa Shelley

SIGNATURES:

Rob Knapik, Member

John Gniadek, Member

Mark Kaferlein, Member
Thomas McNulty, Associate Member
Jim Blackburn, Associate Member

January 5, 2022
Date